



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**49 WRIT PETITION NO. 3478 OF 2023**

SUHAS BHIMRAO JADHAV SINCE DECEASED THROUGH LRS MANGALA  
SUHAS JADHAV AND OTHERS

VERSUS

THE SUB DIVISIONAL OFFICER ALIAS LAND ACQUISITION OFFICER AND  
OTHERS

Mr.R.D. Thorat, Advocate for the petitioner.  
Mr.K.S, Patil, AGP for the respondent-State.  
Ms.S.S. Varma a/w. Mr. Sagar Ladda, Advocate for R-2.  
Mr.R.C. Bora, Advocate for respondent No.5.

**CORAM : KISHORE C. SANT, J.**  
**DATE : 28.03.2025**

**PC :-**

01. Heard learned Advocate for the parties. The challenge in this petition is to an order passed by the learned Civil Judge, Senior Division, Chalisgaon dated 11.10.2021, passed on application Exh.71 in Special Civil Suit no. 223 of 2018. The plaintiff has come to this Court against this order as by the impugned order his application for appointment of the Court Commissioner came to be rejected. The plaintiff has filed suit praying for direction to original defendant Nos.4 to 14 to get their land measured at their own costs from defendant No.3 i.e. Dy. Superintendent of Land Record. His further prayer is that the compensation be proportionately given to the land owners whose land is acquired for the

purpose of road widening by the respondent – Authorities.

02. In the said suit evidence of the plaintiff is over. It is thereafter he filed application for seeking appointment of the Court Commissioner of land Gat No. 251. It is case of the plaintiff that the land was wrongly measured by the DSLR, Chalisgaon. The report is falsely prepared and filed and therefore the Court Commissioner be appointed from the office of the defendant. The learned Court has considered the application, arguments and submissions. It is held that the measurement is carried out by the office of defendant No.3. There is nothing to indicate that the said measurement is not correct. There is also nothing on record to show that the report is not properly filed. The Court also considered the provisions of Section 144(e) of the Indian Evidence Act, which touches presumption as to the measurement done by the Surveyor etc. to be correct, which provides that the official acts have been regularly performed.

03. The learned Advocate for the petitioners vehemently argued the case. He submits that the plaintiff has rightly filed application after completion of his evidence. He submits that the learned Court has committed mistake by passing the impugned order. The order, therefore,

deserves to be set aside by directing the office of respondent No.3 i.e. defendant No.3 to carry out fresh measurement.

04. Learned Advocates appearing for the respondents support the order. Other respondents though served, have not put their appearance.

05. After considering the arguments and the impugned order, this Court does not find any merit in the petition to call for interference at the hands of this Court. The writ petition stands dismissed with no order as to costs.

**[KISHORE C. SANT, J.]**