



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

**CIVIL APPLICATION NO. 2306 OF 2025
IN SA/97/2023**

POPAT DAGDU DHAGE AND ORS.
VERSUS
DEVIDAS FAKDU DHAGE AND ORS.

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Mr. Kishor R. Doke, Advocate for Applicants.
Mr. V. S. Badakh, AGP for Respondent-State.
Mr. Sushant Baburao Choudhari, Advocate for Respondents.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 27th FEBRUARY, 2025.**

P.C.:-

1. Second Appeal was heard for a while and then it has been posted today. The dispute pertains to removal of encroachment and possession of portion of agricultural land forming part of old Survey No.34. The correctness of measurement map relied by Courts is assailed in this Appeal.

2. Mr. Doke, learned Advocate appearing for appellants (original defendant Nos.1 to 4) filed present application to appoint Court Commissioner i.e. Deputy S.L.R., Bhoom for joint measurement of original Survey No.34 and fix the boundaries of Sub Divisions therein. The Sub Divisions are Gut Nos.105, 106, 107 and 110. The defendants are admittedly owners of Gut No.107, whereas plaintiffs are owners of Gut No.110. With a view to resolve controversy between parties, it would be appropriate to appoint Court Commissioner in exercise of powers under Order XXVI Rule 9 of the Code of Civil Procedure. The applicants are ready to bear expenses for urgent joint measurement of land

through Deputy S.L.R., Bhoom or competent officer appointed by him.

3. The learned Advocate appearing for the respondents/plaintiffs has no objection if a Court Commissioner is appointed for aforesaid purpose at the cost of the defendants.

4. In light of submissions advanced, following order is passed:

ORDER

a. Civil Application is allowed.

b. The Deputy S.L.R., Bhoom, or his authorized officer is appointed as the Court Commissioner for joint measurement of land Survey No. 34 and for fixing the boundaries of Gut Nos. 105, 106, 107, and 110. He shall prepare a map depicting the land in actual possession of respective landowners, particularly from Gut Nos.107 and 110.

c. The applicants to deposit measurement charges within a period of 10 days from date of this order and submit receipt to this Court.

d. The Court Commissioner shall issue notices to the respective parties informing them date fixed for measurement and, after completing the commission work, shall submit a report to this Court through AGP.

e. Parties to this application shall furnish their updated address, mobile number for communication.

f. The report of such measurement alongwith map shall be submitted to this Court within a period of eight (08) weeks from

today through AGP. Learned AGP shall communicate this order to Deputy S.L.R., Bhoom for compliance.

g. The execution of decree under Appeal shall be kept in abeyance till submission of commission report to this Court.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/February-2025