



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4802 OF 2022

Bapu Ramdas Phatakade

....Petitioner

VERSUS

Mohan Baba Khomne & others

.....Respondents

Mr. Y. S. Choudhari, Advocate for the Petitioner.

Mr. V. R. Dhorde, Advocate for Respondent Nos. 1 to 4.

CORAM : R. M. JOSHI, J.

DATE : 8th SEPTEMBER, 2025.

PER COURT :

1. Heard learned counsel for both sides.
2. This Court has passed order on 28.04.2022 which reads
thus :-

1. The petitioner is aggrieved by the order passed by the first appellate court below Exhibit-38 in Miscellaneous Civil Appeal No. 27 of 2020, thereby allowing the application filed by the respondents under Order XXVI, Rule 9 of the Civil Procedure Code and appointing an advocate as court commissioner to carry out inspection of the lands mentioned in the impugned order and directing him to submit report along with map mentioning cart way, path ways available to the said lands.

2. *Though the impugned order is assailed on merits by the petitioner, this court is inclined to entertain the petition only on the limited aspect that the trial court ought to have appointed expert like Taluka Inspector of Land Records or District Superintendent of Land Records as court commissioner to carry out inspection of the lands.*

3. *Issue notice for final disposal to the respondents, returnable on 6th July, 2022. In addition to court process, private service is permitted.*

4. *In the meanwhile, there shall be ad interim stay to the impugned order dated 9th March, 2022 passed by the District Judge – 1, shrigonda below Exhibit-38 in MCA No. 27 of 2020.*

3. The above order clearly indicates that this Court has entertained the Petition on the limited aspect that the Trial Court ought to have appointed expert like Taluka Inspector of Land Records or District Superintendent of Land Records to carry out inspection of the land.

4. Learned counsel for Petitioner, on instructions, makes a statement that Taluka Inspector of Land Records be appointed as

Court Commissioner for measurement of the disputed land. Learned counsel for Respondents records no objection for the same.

5. In view of the above, the impugned order stands modified in following terms :-

“ Application Exhibit 38 is allowed. Taluka Inspector Land Records is appointed as the Court Commissioner.”

Rest of the order to remain as it is. The expenses of measurement to be borne by the Plaintiff.

(R. M. JOSHI)
Judge

dyb