



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

997 WRIT PETITION NO. 4854 OF 2022

BAJIRAO GOVINDRAO BHOSLE

VERSUS

DEVAIBAI TUKARAM BHOSLE AND OTHERS

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Advocate for the Petitioner : Mr. R.P. Dhase h/f. Mr. Amol Ram Joshi

Advocate for Respondent No.1a, 1b, 2, 3, 4 And 5 : Mr. Satyajit B.Pawar h/f.Mr. M. S.
Bhosale

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 10.12.2025

PER COURT :

. Heard learned counsel for respective sides.

2. By way of present petition, the petitioner challenges the order dated 26.06.2020 passed below Exh.23 by the learned Executing Court (Civil Judge, Junior Division, Patoda) in Regular Darkhast No.15 of 2012 whereby, the application filed by Decree holder for review of order passed below Exh.17 came to be rejected.

3. Learned counsel for respondent No.3 points out that earlier, on the same ground, an application was filed and the same was rejected, against which the petitioner filed Writ Petition No. 9771 of 2014, which also came to be dismissed by this Court vide its order dated 23.11.2015.

4. I have gone through the order passed by this Court in Writ Petition No.9771 of 2014 on 23.11.2015 and order passed by the learned Executing Court. This Court in Writ Petition No.977 of 2014

has passed following order, the paragraph Nos.1 to 3 of which are reproduced as follows :

“1. Pursuant to an application for appointment of Commissioner, moved under Order XXVI, Rule 9 of the Code of Civil Procedure, in the execution proceedings bearing R.D. No.15 of 2012, the Taluka Inspector of Land Records has prepared report, which is objected by the petitioner by moving second application Exhibit-17 for appointment of another Court Commissioner. The ground of disagreement with the earlier report of Taluka Inspector of Land Records is that he has measured some different land of the said Survey Number. The second application for appointment of Court Commissioner (Exhibit-17) came to be rejected by the learned executing Court by an order dated 22nd August, 2014. Thus, the present petition.

2. Mr.Bora, learned Counsel appearing on behalf of the petitioner would urge that the application ought to have been granted, in view of the fact that the petitioner is a decree holder, who is seeking execution of the decree by appointment of Court Commissioner, which exercise is required to be carried out at his behest and costs.

3. The above referred submissions cannot be accepted, particularly having regard to the fact of measurement of the land by the Taluka Inspector of Land Records and drawing of panchanama and report to that effect. Since it is brought on record that those reports are incorrect, it will be inappropriate to pass an order of appointment of another Court Commissioner. The executing Court, in my opinion, has rightly considered the entire gamut of the matter and has rejected the application”

5. I do not find any reason to interfere with the order dated 26.06.2020 passed below Exh.23 by the learned Executing Court (Civil Judge, Junior Division, Patoda) in Regular Darkhast No.15 of 2012 under Article 227 of the Constitution of India.

6. In view thereof, the Writ Petition is dismissed. No order as to costs.

(SIDDHESHWAR S. THOMBRE, J.)

vsj..