



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14549 OF 2021

Shivaji Balwantrao Patil
VERSUS
Subhash Babarao Patil And Another

• Mr. V. D. Gunale, Advocate for the Petitioner

CORAM : R. M. JOSHI, J
DATE : OCTOBER 01, 2025

PER COURT :

1. This Petition takes exception to the order passed below Exh. 30 in RCS No. 36/2018 whereby Trial Court has rejected application filed by the Petitioner/Plaintiff under Order XXVI, Rule 9 of Code of Civil Procedure for appointment of Taluka Inspector of Land Record for joint measurement of Survey No. 61/1 situated at village Sangam, Tq. Deoni, Dist. Latur.

2. The facts, as they appear from the record, indicate that Petitioner/Plaintiff filed suit for injunction against Defendant claiming to be the owner of suit property on the basis of registered sale deed. Defendant by filing written statement denied the ownership and possession of Plaintiff over the suit

property.

3. Plaintiff filed application for measurement of the suit property. This application came to be rejected by Trial Court on the ground that in this suit, dispute with regard to the boundary is not involved.

4. Learned Counsel for the Petitioner/Plaintiff submits that in the written statement the Defendant has alleged that the Petitioner/Plaintiff has caused encroachment upon the suit land. It is his submission that in view of this defence of the Defendant, the measurement of the suit property is necessary and that it will not cause prejudice to any party.

5. Perusal of the record indicates that Defendant though filed written statement, has not filed any counter-claim. Thus, Trial Court is not required to decide the claim of the Defendant. The issue, therefore, in this suit would be only in respect of the injunction to be granted in favour of the Plaintiff on the basis of claim of ownership. Trial Court in the impugned order has rightly appreciated the said facts and has held that there is not boundary dispute between

the parties as claimed by the Plaintiff nor the Plaintiff claims repossession of the property on the ground of encroachment done by the Defendant. The said findings are in consonance with the pleading on record. This Court, therefore, finds no perversity in the impugned order.

6. As a result of above discussion, Petition stands dismissed.

(R. M. JOSHI, J.)