



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 509 OF 2023

Sayed Jakir Sayed Kabir And Others

VERSUS

Sayed Akbar Sayed Kabir And Others

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Advocate for the Petitioner : Mr. Jangada Suyashkumar S.

Advocate for Respondent No.3 : Mr. Pravin N. Kalani

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATED : DECEMBER 16, 2025

PER COURT :

1. Heard learned counsel for respective parties.
2. By way of present petition, the petitioner challenges the order dated 14.11.2022 passed below Exhibit-143 by the learned Joint Civil Judge, Junior Division, Gangakhed in R.C.S. No.171 of 2013, whereby the application filed by defendants for appointment of Court Commissioner under Order 26 Rule 9 of Civil Procedure Code came to be rejected.
3. Mr. Jangada, learned counsel for the petitioners submits that it was specifically submitted in the application that the property of plaintiff and defendant no.1 are adjacent to each other. Even as per the measurement carried out by TILR of Survey No.103/1 to 103/6 of Village Gangakhed. After the said report, the objection was filed but without considering the said objection, the said report was submitted and therefore, for measurement of all these three survey numbers, the appointment of Court Commissioner is necessary.

4. Per contra, Mr. Kalani, learned counsel for respondent no.3 submits that now the plaintiff has led the evidence and therefore, it is for the plaintiff to prove the case after considering the issues framed.

5. As the evidence of defendant no.1 is yet to be commenced, therefore, at this stage, I am not inclined to entertain the present petition. In view thereof, the petition is dismissed. No order as to cost.

6. In case, the petitioner after leading evidence files an application, the same shall be considered on its own merit by the Trial Court in accordance with law.

(SIDDHESHWAR S. THOMBRE, J.)