



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

19 WRIT PETITION NO. 15008 OF 2025

SHAHAJI SAMBHAJI PATIL UMREKAR THROUGH HIS GPA DR SACHIN
SAMBHAJI UMREKAR

VERSUS

NANDED DISTRICT CENTRAL CO OPERATIVE BANK LTD AND OTHERS

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Advocate for the Petitioner : Mr. Kadam Nitin Shamrao

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CORAM : ARUN R. PEDNEKER, J.

Dated : December 15, 2025

PER COURT :-

1. By way of present writ petition, the petitioner/original defendant No. 1 challenges the impugned order dated 19.8.2025 passed by the learned Civil Judge, Senior Division, Kandhar below Exh. 123 in Special Civil Suit No. 5/2015. The petitioner has filed application for appointment of Court Commissioner for measurement of the land and the same has been rejected by the trial court vide impugned order.
2. The learned counsel for the petitioner/defendant No. 1 submits that the Court Commissioner ought to have been appointed in the matter for measurement of the land.
3. On perusal of the impugned order, it appears that the trial court has observed that the plaintiff has got measured the land through the T.I.L.R. and the T.I.L.R. is examined as witness and the burden is on the plaintiff to prove the encroachment over his land. The application for appointment of court commissioner is moved by the petitioner/defendant. Considering that the burden is on the plaintiff to prove encroachment and evidence is lead to that extent by the plaintiff, the sufficiency of the evidence will be treated by the trial court at the stage of final arguments and judgment. Further

appointment of the Court Commissioner at the instance of the defendant is not warranted in this case. Thus, I hold that no case is made out for interference in the impugned order. The writ petition is dismissed.

(ARUN R. PEDNEKER, J.)

ssc/