



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

10 WRIT PETITION NO. 6169 OF 2025

MANIK RAMBHAU PATIL

VERSUS

SUMANBAI SURYAKANT PATIL AND OTHERS

...

Mr. Salok Amol M., Advocate for the Petitioner

....

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 16.06.2025

PER COURT :-

. The petitioner impugns order dated 15.02.2025 passed below Exhibit-94 by Civil Judge Junior Division Muktainagar in Regular Civil Suit No.50 of 2015.

2. Respondent No.1 instituted Regular Civil Suit No.50 of 2015 before Civil Judge Junior Division, Muktainagar seeking relief of removal of encroachment of suit property against present petitioner and respondent Nos.2 to 4. Respondent relied upon map of measurement prepared by Deputy Superintendent of Land Records. However, petitioner disputed aforesaid map and contentions as to encroachment made in the plaint. The evidence of plaintiff and his witness was recorded during the trial. Petitioner disputed correctness of map, accordingly cross-examined witness.

3. In this background, plaintiff filed application below Exhibit-94 for appointment of Deputy Superintendent of land records

or Authorized Officer as Court Commissioner for joint measurement of both lands of plaintiff and defendant which are adjacent to each other.

4. The learned Trial judge after considering rival contentions found that evidence on record is not sufficient to draw definite conclusion. Therefore, so as to resolve controversy between the parties, joint measurement of both lands through the expert i.e., deputy Superintendent of Land Records would be necessary. Plaintiff has shown readiness to bear expenses. In that view of the matter, impugned order is passed thereby appointing Court Commissioner.

5. Mr. Salok, learned Advocate appearing for petitioner vehemently submits that the appointment of Court Commissioner was not necessary in the facts of the present case, when earlier measurement map is already on record and plaintiff has already examined his witness to prove the same. He points out that on 08.06.2015 and 24.06.2015 measurement was conducted and plaintiff has relied upon its map as well as oral evidence of the concerned officer. Hence, he objects to reappoint Court Commissioner for same purpose.

6. The fact remains that earlier measurement map has been disputed by petitioner. In cross-examination some technical objections as to measurement and map are brought on record. In this background, a cogent and reliable measurement map is necessary for final

adjudication of dispute between the parties. The trial court, taking into account aforesaid aspects, allowed application at the cost of plaintiff-respondent. No prejudice would be caused to the petitioner if Commissioner conducts measurement and furnishes flawless map of joint measurement. In fact, it will facilitate Court to conclusively adjudicate dispute between the parties.

7. In that view of the matter, there is no substance in writ petition. Hence, writ petition stands rejected.

[S. G. CHAPALGAONKAR, J.]

HRJadhav