

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1194 OF 2025

Pramod Maruti Sawant ,...Petitioner

Versus

Rajendra Ganpatrao Patil and anr. ...Respondents

Mr. Nikhil Pawar, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED: 30th JANUARY, 2025

PC:-

1. Heard the learned Counsel for the petitioner.
2. The challenge in this petition is to an order dated 21st October, 2024, whereby the learned Civil Judge, Islampur, has rejected the application preferred by the petitioner for appointment of a Cadestal Surveyor to remeasure the suit property asserting that the measurement carried out by the Cadestal Surveyor pursuant to the order passed on the application (Exhibit-30) is not in conformity with the order passed by the Court. The learned Civil Judge was of the view that there was delay in filing the application seeking remeasurement of the suit property.

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3. The learned Counsel for the petitioner submitted that the petitioner had filed an objection to the report submitted by the Court Commissioner and had raised the ground that the measurement had not been carried out in accordance with the order of the Court and the report of the Court Commissioner was not correct.

4. It appears that the Court Commissioner has yet not been examined as a witness, touching his report of Commission. It would, therefore, be expedient that the Court Commissioner be first examined as a witness and, post examination, if the plaintiff files an application for remeasurment of the suit land, the same can be considered by the trial court depending upon the evidence adduced by the Surveyor.

5. Keeping open the liberty to apply for remeasurement of the suit land, after the Cadestal Surveyor has been examined as a witness, the petition stands dismissed.

6. In the event, such an application is filed, the trial court shall decide the same on its own merits and in accordance with law.

[N. J. JAMADAR, J.]