

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5566 OF 2024

Malhari Babu Bharane ...Petitioner

Versus

Ankush Manaji Bharane and ors. ...Respondents

Mr. Shardul Diwan, i/b Rahul Kadam, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED: 3rd MARCH, 2025

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PC:-

1. Heard the learned Counsel for the petitioner.
2. The challenge in this petition is to an order dated 4th January, 2014 passed by the learned Civil Judge, Indapur, whereby an application for appointment of Superintendent, Land Records, Pune, as a Court Commissioner, to re-measure the suit land, came to be rejected.
3. The petitioner has instituted a suit for perpetual injunction and removal of encroachment. The defendants contested the suit. The plaintiff preferred an application for appointment of a Court Commissioner to measure the suit land. By an order dated 26th October, 2016, the Deputy Superintendent, Land Records, Indapur, was appointed as a Court Commissioner, to measure the suit land and submit a

report. TILR executed the commission and submitted the report.

4. The plaintiff has preferred the instant application asserting that the measurement carried out by the TILR and the encroachments shown are incorrect. It is, therefore, necessary to re-measure the suit land by appointing another Commissioner.

5. The learned Civil Judge was persuaded to reject the application observing *inter alia* that whether the TILR has correctly measured the suit land and submitted a correct report about the encroachment, can only be ascertained after the TILR is examined as a witness before the Court.

6. Evidently, the plaintiff has not examined the TILR as a witness touching the commission. At this stage, there is no sustainable ground to assert that the report submitted by the Court Commissioner is faulty. The view taken by the learned Civil Judge is impeccable. Thus, no interference is warranted in exercise of supervisory jurisdiction.

7. The petition stands dismissed.

[N. J. JAMADAR, J.]