

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7575 OF 2024

Santosh Madhusudan Potdar ...Petitioner
vs.
Satish Sadanand Achrekar and Ors. ...Respondents
Mr. Rohit Joshi, for the Petitioner.

CORAM : N. J. JAMADAR, J.
DATE : MARCH 06, 2025

P.C:

1. Heard the learned counsel for the petitioner.
2. The challenge in this petition is to an order dated 21st September, 2023 passed by the learned Civil Judge, Mangaon whereby an application preferred by the petitioner to appoint Dy. Superintendent, Land Record, Mangaon as a Court Commissioner to have the measurement of the properties i.e. agricultural lands bearing Gat Nos. 17 and 18 and demarcate the boundaries came to be rejected.
3. The trial Court has appointed a Court Commissioner on an application filed on behalf of the defendants. The commission was executed and the Court Commissioner has submitted the report.
4. The learned Civil Judge was of the view that, at this stage, there was no material to draw an inference that the report submitted by the Commissioner was incorrect.

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5. Since the Cadastral Surveyor was already appointed as Court Commissioner and the report of the commission has been submitted, it would be appropriate that the Cadastral Surveyor who executed the commission is examined as a witness before the trial Court and after the evidence of the said witness is recorded touching the report of the commission, the Court would be in a position to draw an appropriate inference regarding the correctness of the measurement carried out by the Court Commissioner.

6. The petition, thus, stands disposed with liberty to the petitioner to file an application for appointment of commission after the evidence of the Cadastral Surveyor, who has executed the commission, is recorded.

7. 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.)