



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 2257 of 2025

[Shri Shivkumar s/o Madanmohan Jaipuria and ors. ..vs.. Shri Sunil
s/o Govindrao Chakole]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. O. A. Ghare, Advocate for the petitioners

CORAM : ANIL L. PANSARE J.

DATED : 24-04-2025

Heard.

2. Considering the dispute between the parties indicating issue of encroachment, the trial Court has, by impugned order, appointed Deputy Superintendent of Land Records, Tumsar as Court Commissioner for the purpose of joint measurement of property bearing Gat No. 712/06, admeasuring 0.47 dismill and Gat No. 712/07, admeasuring 0.99 dismill situated at Shivnagar, Tumsar.

3. The petitioners claim ownership over property bearing Gat No. 712/07 and the respondent on the other plot. It is the case of the petitioners that respondent has installed the board in their property. Thus, there is a dispute whether the board has been affixed in the property belonging to petitioners or the respondent. Accordingly, the trial Court thought it proper to appoint commissioner, which order appears to be in consonance with the series of judgments on the point.

4. This Court has taken a consistent view that it is beneficial and appropriate in the suit involving question of encroachment to get the lands measured by appointing Court Commissioner under Order 26 Rule 9 of the Code of Civil Procedure, 1908. The local investigation on this point is necessary for having clarity on the contentious issue. This is

what the trial Court has done in the present case. No interference is, therefore, called for in the impugned order.

5. At this stage, learned counsel for the petitioners submits that the petitioners may be granted liberty to seek modification in the order to the extent of getting entire survey measured, if so desired. This according to the petitioners will further clarify the issue of encroachment, if any. The request is reasonable and is accepted. If the application is so filed before the trial Court, the same shall be considered on its own merit. Writ petition is accordingly dismissed with no order as to costs.

(Anil L. Pansare, J.)

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