



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

**WRIT PETITION NO. 4916/2025**

(ANAND KEWALRAMJI CHURAD & OTHERS **VERSUS** NANDU VASANTRAO FULMALI)

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

*Court's or Judge's order*

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Shri M. Anilkumar, counsel for the petitioners.  
Shri P.P. Salunkhe, counsel for the respondent.

**CORAM : PRAFULLA S. KHUBALKAR, J.**

**DATE : NOVEMBER 17, 2025**

Heard.

2. The petitioners have challenged the order dated 31.07.2025 passed by the appellate Court in Civil M.A. no.868 of 2024 to the extent of direction of temporarily restraining the petitioners from carrying out measurement of the disputed property.

3. The petitioners are the applicants who had filed an application for condonation of delay in filing appeal under Section 96 of Code of Civil Procedure, 1908 (for short, 'the Code') against the judgement and decree dated 03.05.2023 passed in Regular Civil Suit no.581 of 2011. The respondents had filed an application seeking temporary injunction to restrain the petitioner from carrying out measurement of the disputed property and changing status of the property during pendency of the application for condonation of delay. By order dated 31.07.2025, the trial Court allowed the said application and restrained the petitioners from carrying out measurement of the suit property and also directed the

parties to maintain *status quo* in respect of the disputed property till decision of the application for condonation of delay.

4. The contention of the counsel for the petitioners is that after the decision in the civil suit, it was found that the adjoining owners of the disputed land were trying to encroach on the suit land and therefore the need was felt to measure the land to ascertain exact boundaries. Therefore, the petitioners had approached the Government authorities for getting the land measured and notice dated 19.06.2025 was issued by the Deputy Superintendent of Land Records, Nagpur to the concerned parties for carrying out measurement of the land. It is the case of the petitioners that measurement of the land is necessary for ascertaining the exact boundaries and also for maintaining the property during pendency of the appeal filed before the District Court. It is also submitted that during pendency of the application for condonation of delay, the appellate Court has already passed an order dated 19.09.2024 on the stay application and parties are directed to maintain *status quo* with respect to possession and mutation.

5. Opposing the petition, Shri P.P. Salunkhe, learned counsel for the respondent submitted that the measurement sought by the petitioner during the pendency of application for condonation of delay will create further complications and it will cause prejudice to the respondents. He submitted that the petitioners' insistence for measurement is an attempt to delay the proceedings.

6. While considering the controversy, it has to be seen that during pendency of the application for condonation of delay when the petitioners observed activities of the adjacent land owners attempting encroachment on the suit land, the application for measurement was submitted to the Government authorities. Pursuant thereto, the notices for measurement were also issued and the measurement was being carried out by the Government authorities. It is crucial to note, in reply dated 30.07.2025 to the application for temporary injunction filed by the respondent, the applicant (petitioner no.3 herein) categorically stated that he shall maintain *status quo* in respect of the land. Further, it is crucial to note that there is no challenge by the petitioners to Clause 3 of the operative portion of the impugned order. As such, there is no dispute that the petitioners have agreed to maintain *status quo* in respect of the disputed property, during pendency of the proceedings of Civil M.A. no.868 of 2024. The only controversy is about the need for carrying out measurement of the disputed property.

7. Having regard to the contentions advanced by both the parties, it appears that the action of the petitioners to get the land measured through Government officials is reasonable and justified. There is no need to restrain the petitioners from carrying out measurement of the disputed property. Rather, it will be beneficial for both the parties to get the land measured so that it is identified in future. There appears no prejudice to the respondent.

In view of the aforesaid, the impugned order to the extent of restraining the petitioners from carrying out measurement of the disputed property needs to be interfered with.

8. The writ petition is accordingly allowed and Clause 2 of the order dated 31.07.2025 on application at Exhibit 45 in Civil M.A. no.868 of 2024 is quashed and set aside. The writ petition is disposed of with no order as to costs.

**(PRAFULLA S. KHUBALKAR, J.)**

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