

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4423 OF 2024

Babasaheb Genu Dhas Died Through Lrs Ashok Babasaheb Dhas And
Others

VERSUS

Subhash Daulat Dhas And Others

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Advocate for the Petitioners : Mr. Nangare Prashant R.

Advocate for Respondent No.3 : Mr. Y.V. Kakade

Advocate for Respondent No.8-G : Mr. A.A. Khande

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : JANUARY 27, 2026

PER COURT :-

1. The petitioners/original defendants take exception to order dated 20.12.2023 passed by learned Civil Judge Junior Division, Shevgaon, District Ahmednagar below Exhibit-7 in Regular Civil Suit No.79 of 2020 by which the application filed by respondents seeking appointment of Court Commissioner has been allowed.

2. Respondent nos.1 to 4 instituted Regular Civil Suit No.79 of 2020 seeking relief of removal of encroachment and possession in respect of 80 R portion out of Gat No.133 situated at Village Yarandgaon, Taluka Shevgaon, District Ahmednagar. It is specific contention of plaintiffs that defendants have encroached upon two acres of land from ownership of plaintiffs and therefore seeks removal of such encroachment and possession. The petitioners/defendants filed written statement and refuted claim of plaintiffs.

3. Looking to pleadings in plaint and written statement, apparently, there is dispute as to boundaries between the parties. Unless there is measurement through cadastral surveyor or competent authority, such a dispute cannot be resolved. It is well settled that in case of boundary dispute, the Court can exercise powers under Order XXVI Rule 9 of Civil Procedure Code. Apparently, the Trial Court has judiciously exercised such powers and directed appointment of TILR, Shevgaon as Court Commissioner with further direction for joint measurement of Gat No.133 with specified portion in possession of respective parties. This Court finds that appointment of Court Commissioner under impugned order is just and proper. There is no reason to exercise extra-ordinary jurisdiction under Article 227 of Constitution of India to interfere with impugned order.

4. In result, writ petition stands rejected.

(S.G. CHAPALGAONKAR, J.)