

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 2031 OF 2026

Kumudin Raghuwal Nikam Since Died Thr Lrs Manuel Raghuwal
Nikam
VERSUS
Sandip Arvind Kalokhe

WITH
WRIT PETITION NO. 2038 OF 2026

Rajanikant Shahurao Salve Since Died Thr Lrs Tai Shahurao Salve
Died
VERSUS
Sandip Arvind Kalokhe

...
Advocate for the Petitioners : Mr. Ajinkya Joshi h/f Mr. Natu Sharad V.

...
CORAM : S. G. CHAPALGAONKAR, J.

DATED : FEBRUARY 24, 2026

PER COURT :-

1. Present writ petitions take exception to order dated 08.12.2025 passed by III Joint Civil Judge, Senior Division, Ahmednagar below Exhibit-147 in Special Civil Suit No.28 of 2018 and below Exhibit-150 in Special Civil Suit No.26 of 2018. The petitioners are defendants in suit. The suit is instituted for relief of possession, mandatory injunction for removal of unauthorized construction and perpetual injunction in respect of suit property. The petitioners/defendants appeared in suit, filed written statement and took a plea of adverse possession. The Trial Court framed issues. Issue No.4 is specifically framed as under :

“4. Is the plaintiff entitled for possession of the suit property ?”

2. In aforesaid background, petitioners/defendants filed an application for framing additional issue as under :

“Does Plaintiff prove that defendant has made encroachment to the North side of the suit property ?”

3. The Trial Court refused to entertain said application.

Hence, these writ petitions.

4. Learned advocate appearing for petitioners submits that plaintiff has specifically pleaded that there is encroachment on northern part of suit property. However, no issue is framed in this regard and, therefore, framing of additional issue would be necessary. Perusal of issues framed by Trial Court shows that Issue No.4 is comprehensive and puts burden on plaintiff to prove his entitlement to seek possession of suit property. Once such issue is framed, plaintiff would have to prove his entitlement to seek possession of suit properties as mentioned in plaint. Therefore, there is no necessity to frame specific issue as to whether plaintiff proves encroachment on northern side of suit property.

5. The Trial Court has rightly considered aforesaid aspect and refused to entertain prayer for framing additional issues. No jurisdictional error is found in impugned order. Hence, both writ petitions stand rejected.

(S.G. CHAPALGAONKAR, J.)