

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3512 OF 2026

Sindhu Ravindra Thakre And Others

VERSUS

Ravindra Vitthalrao Thakre And Others

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Advocate for the Petitioners : Mr. Agrawal Pawankumar Suryakiren

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : APRIL 06, 2026

PER COURT :-

1. Present petition takes exception to order dated 13.10.2025 passed by Civil Judge Senior Division, Hingoli below Exhibit-51 in R.C.S. No.178 of 2012, whereby petitioners application for appointment of Court Commissioner has been rejected.

2. The petitioners are original plaintiffs in R.C.S. No.178 of 2022. The suit is instituted for partition, separate possession and perpetual injunction in respect of Block No.218 admeasuring 0.76 R situated at Belura Taluka and District Hingoli. The petitioners filed an application below Exhibit-51 under Order 26 Rule 9 of Civil Procedure Code seeking appointment of Deputy Superintendent of Land Record as Court Commissioner to identify boundaries of Gat No.216, 217 and 218 and to find out who is in possession of said lands.

3. The Trial Court refused to entertain said application observing that plaint is completely silent as to dispute regarding

identity of suit property or boundary dispute or area of suit property. Even counter claim filed by defendant no.2 is silent about same. Resultantly, Court found that exercise of jurisdiction under Order 26 Rule 9 of Civil Procedure Code is not necessary.

4. Mr. Agrawal, learned advocate appearing for petitioners submits that defendants are now trying to encroach upon property which is in possession of petitioners/plaintiffs. As such, they are now raising dispute as to boundaries. Although, aforesaid contention may give cause for appointment of Court Commissioner, in absence of pleadings in that regard or prayers in suit requiring appointment of Court Commissioner, impugned order appears to be in tune with legal position and factual backdrop of matter.

5. Needless to state if petitioners/plaintiffs files application for amendment of plaint and brings on cause for appointment of Court Commissioner, petitioners shall be at liberty to file fresh application in that regard.

6. With aforesaid liberty, writ petition stands disposed of.

(S.G. CHAPALGAONKAR, J.)