



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 539 OF 2026

SHIVAJI GAJABA GHUMARE AND OTHERS
VERSUS
PARMESHWAR SHAHURAO GHUMARE AND OTHERS

...
Mr. Hrishikesh V. Tungar, Advocate for the Petitioners.
Mr. Yogesh K. Bobade, Advocate for Respondent Nos.1 to 3.

...
CORAM : S. G. CHAPALGAONKAR, J.
DATED : 19th JANUARY, 2026.

P.C.:-

1. The petitioners/original defendants takes exception to order dated 17.10.2025 passed below Exhibit-33 by Civil Judge Senior Division, Beed in Regular Civil Suit No.62/2025, whereby Trial Court directed appointment of Deputy Superintendent Land Record, Beed as Court Commissioner with further direction to him to visit suit property land bearing Gut No.127 admeasuring 1H 1R situated at village Warwati, Tq. and Dist. Beed and measure it by giving notice to all neighbours and submit report of encroachment, if any.

2. The respondents own land Gut No.127. They filed suit for removal of encroachment before Civil Judge Senior Division, Beed alleging that defendants have encroached upon portion of 100 x 180 sq. ft. on their land. Admittedly, defendants are owners of land Gut No.129, which is situated on Western side of land of petitioners. In this background, respondents/plaintiffs moved an

application under Order 26 Rule 9 of Code of Civil Procedure seeking appointment of Court Commissioner. The Trial Judge allowed said application and directed measurement of only land Gut No.127.

3. Mr. Hrishikesh Tungar, learned Advocate appearing for petitioners vehemently submits that appointment of Court Commissioner could not have been to the extent of land Gut No.127 only. If dispute between parties is to be resolved, entire survey number needs to be measured.

4. Per contra, Mr. Yogesh Bobade, learned Advocate appearing for respondent nos.1 to 3/caveator would support impugned order. He would submit that there are specific contentions in plaint that defendants have caused measurement over Gut No.127 and once boundaries of Gut No.127 are fixed, encroached portion can easily be carved out.

5. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that this is a suit for removal of encroachment. There is dispute as to boundaries of Gut Nos.127 and 129 respectively owned by plaintiffs and defendants. In this background, if dispute between parties is to be resolved, there has to be joint measurement of Gut Nos.127 as well as 129, which are adjacent to each other. In this backdrop,

impugned order needs to be modified, so as to give quietus to litigation between parties.

6. Mr. Bobade, learned Advocate appearing for respondents on instructions submits that plaintiffs/respondents have no objection if joint measurement of Gut Nos.127 and 129 is caused and plaintiffs would deposit necessary fees for measurement.

7. In result, Writ Petition is partly allowed.

8. The Deputy Superintendent Land Record, Beed shall cause joint measurement of Gut Nos.127 and 129 situated at village Warwati, Tq. and Dist. Beed and fix boundaries of both gut numbers and carve out encroachment, if any by any of party over respective gut numbers and submit report of such measurement to Trial Court within a period of two months from date of this order.

9. At present, plaintiffs shall deposit charges of Court commission, which shall be costs in cause.

(S. G. CHAPALGAONKAR)
JUDGE