

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 693 OF 2026

Khalik Osman Shaikh

VERSUS

Hajju Husain Shaikh Thr Poa Mohammad Hajju Shaikh And Others

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Advocate for the Petitioner : Mr. More Abhijit S.

AGP for Respondent/State : Mr. S.N. Kendre

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : JANUARY 20, 2026

PER COURT :-

1. Heard.
2. Present petition takes exception to order dated 22.12.2025 passed below Exhibit-110 in R.C.S. No.187 of 2006 by Joint Civil Judge, Junior Division, Paranda, whereby application filed by petitioner seeking framing of additional issues has been rejected.
3. The petitioner is defendant in R.C.S. No.187 of 2006. The suit has been instituted by respondents seeking decree of declaration, removal of encroachment, possession and mesne profits. In that suit as per remand order by Appellate Court, Court Commissioner was appointed. He carried measurement and submitted report. In this backdrop, petitioner/defendant no.1 filed an application below Exhibit-110 seeking to frame additional issues. One of the proposed issue is that "whether measurement dated 24.05.2023 carried by TILR is legal and proper? Secondly, whether suit is bad for non-joinder of

parties? The Court rejected said application firstly because, during pendency of suit prior to remand, defendant never raised objection about non-joinder of party. Secondly, application is filed at belated stage particularly after evidence of Court Commissioner is recorded. Further petitioner has availed his right to cross-examine.

4. It is trite that issues are required to be framed on the basis of pleading of parties. In this case, since there is a dispute as to boundaries, TILR was appointed as Court Commissioner. He carried measurement. He entered into witness box and petitioner has cross-examined him. At this stage, there is no necessity to frame issue regarding validity of measurement carried by TILR. It is for the Trial Court to appreciate evidence and record finding as to validity and acceptability of report/evidence of TILR.

5. In that view of the matter, no jurisdictional error can be found in impugned order. Hence, writ petition stands rejected.

(S.G. CHAPALGAONKAR, J.)