



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 WRIT PETITION NO.3448 OF 2026

Gajanan Rustumrao Kadam And Others

VERSUS

Rajkumar Madanlal Kala

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Advocate for Petitioners : Mr. V P Patil

AGP for Respondents : Mr. S. D. Ghayal

Advocate for Respondent no.1,2 : Mr. S.R. Mantri

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : April 17, 2026

ORDER :-

1. Heard Mr.Patil, learned advocate appearing for petitioners.

2. The petitioners filed Regular Civil Suit No.213 of 2025 before learned Civil Judge J.D., Nanded seeking the relief of declaration and injunction. It is contention of petitioners that they owned the land in gat no.293 admeasuring 5H 23R at village Palsa, Tq. Hadgaon, District Nanded. Respondent nos.1 and 2 are adjacent land holders in gat nos.294 and 295. There is a Pandan road since last 100 years in between land of plaintiffs and defendants. Defendant nos.1 and 2 have encroached upon the pandan road and claimed it to be part

and parcel of their land and in collusion with the Authorities they are trying to shift pandan road to land of petitioners.

3. Defendants, however refuted petitioners claim by filing written statement. They contend that pandan road is in fact encroached by the petitioners/plaintiffs. Respondents authorities have issued a notice of measurement and on the basis of measurement, it is found that plaintiffs are encroachers. Accordingly, action is taken for removal of the encroachment.

4. It appears that during pendency of suit, a Court Commissioner was appointed. Report of the Court Commissioner is on record. Prima facie, measurement report do not support petitioners' claim. Although, petitioners are relying upon measurement map of the year 2012, it is not consistent with measurement map of the year 2025. It appears that petitioners were present when Court Commissioner i.e. Deputy Superintendent of Land Records, Hadgaon carried out measurement. Report of such measurement shows encroachment of plaintiffs over Pandan road. In aforesaid backdrop, it is open for the petitioners either to raise challenge to measurement report submitted by the Court Commissioner

before the Appropriate Authority or seek re-appointment of the Court Commissioner on the basis of so-called defects in the measurement. However, at this stage, prima facie, case of the petitioners cannot be accepted, particularly, for the purpose of granting Temporary injunction, as prayed. Perusal of the impugned orders shows that both the Courts have applied mind to pleadings of parties and material placed into service to record elaborate findings on the relevant questions.

5. In this backdrop, this Court do not find any reason to interfere in the impugned orders. Needless to state here that, findings recorded by the Courts below as well as this Court are based on prima facie consideration of the material and the Trial Court is expected to decide suit **expeditiously** without influenced by the observations in this order. Writ Petition stands **dismissed**.

(S. G. CHAPALGAONKAR, J.)

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