



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 4299 OF 2026**

SYED SAILANI SYED HAFIZ AND OTHERS
VERSUS
SYED RASHEED SYED HUJUR AND OTHERS

...
Mr. Vishant Prabhakar Rao Kadam, Advocate for the Petitioners.

...
CORAM : S. G. CHAPALGAONKAR, J.
DATED : 21st APRIL, 2026.

P.C.:-

1. The petitioners impugn order dated 24.02.2026 passed below Exhibit-153 by Civil Judge Senior Division, Parbhani in Regular Civil Suit No.439/2012.
2. The petitioners are original defendants in Regular Civil Suit No.439/2012. The suit is instituted for removal of encroachment and recovery of possession of 54R land from Gut No.125 situated at village Ukhilad.
3. It appears that, during pendency of suit, Court Commissioner was appointed for measurement of land vide order dated 02.01.2017. The report of Commissioner is filed on record. The petitioners filed their evidence affidavit, wherein they have categorically stated about execution of commission and measurement by Court Commissioner as per measurement map filed before Court. They stated that it be exhibited. However, measurement map was not given Exhibit. Ultimately, matter proceeded. At the stage of argument, plaintiff filed application

requesting for giving Exhibit to measurement map dated 02.01.2017. The petitioners/defendants opposed same on ground that suit has reached to final stage and parties have closed evidence, hence, if Exhibit number is given to measurement map dated 02.01.2017, there would be no opportunity to petitioners to refute contents thereof.

4. This Court finds that there is no dispute between parties that in pursuance to order dated 02.01.2017 Court Commissioner was appointed and he executed commission and submitted map on record of Court. It is trite that, report of Court Commissioner itself is not evidence, unless it is admitted by parties or proved in accordance with law. In present case, petitioners' own evidence affidavit states that there is no objection to exhibit documents and accordingly, Trial Court directed to exhibit report of commission. As such, if petitioners themselves had no objection for exhibiting documents, Trial Court cannot be said to have committed any fault in giving direction for exhibition of documents.

5. With aforesaid observations, Writ Petition stands dismissed.

6. Needless to state here that, although document is exhibited, it would be open for parties to accept or controvert contents thereof.

(S. G. CHAPALGAONKAR)
JUDGE