



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4933 OF 2026

Ramesh Bhagaji Teli

VERSUS

Rajendra Fattesing Thakur And Ors

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Mr. B. S. Doifode, Advocate for the Petitioner

CORAM : S. G. CHAPALGAONKAR, J

DATE : MAY 04, 2026

PC:

1. The Petitioner impugns order dated 07.04.2026 passed by learned Civil Judge, Junior Division, Jamner below Exhibit 61 in RCS No. 153/2019.

2. The Petitioner is Plaintiff in RCS No. 153/2019. The suit is filed seeking removal of encroachment of Respondents/Defendants on land of Petitioner. The Respondents/Defendants filed written statement and refuted averments in plaint. Since there is dispute as to boundaries, Petitioner filed an application below Exhibit 61 for measurement of Gut Nos. 2/1 and 2/2 by appointing Court Commissioner. The Trial Court declined to entertain Petitioner's application only for reason that Petitioner has sought measurement of his land and not measurement of adjoining land, which could have helped Court in deciding controversy between parties.

3. It is trite that in case of dispute as to boundaries and consequential prayer for removal of encroachment, it is necessary to appoint Court Commissioner

i.e. Competent Authority from land record. It is also trite that in case of dispute as to boundaries, it is necessary to measure adjacent lands from gut number/survey number to find out exact position of boundaries and encroachment, if any, by parties to suit. The Petitioner made an application for appointment of Court Commissioner to measure land owned by him from Gut Nos. 2/1 and 2/2 and never prayed for joint measurement of his land and land of Respondent.

4. In that view of matter, this Court find no fault in impugned order. In result, Writ Petition stands dismissed.

5. Needless to state here that if Petitioner files fresh application by incorporating prayer for joint measurement, Trial Court would consider on its own merit without impeding by present order.

(S. G. CHAPALGAONKAR, J.)

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