IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9735 OF 2026

M/s. Thakkar Investment and Finance Company ... Petitioner
versus
Dnyanoba Baburao Pimpale and Ors. … Respondents

Mr. Atul Damle, Sr. Advocate with Mr. Prasad B. Kulkarni, for Petitioner.
Mr. Piyush P. Hushing with Mr. Pandurang Shinde,for Respondent No.3.

CORAM: N.J.JAMADAR, J.

DATE : 5 OCTOBER 2026

ORDER :

1. Heard the learned Counsel for the parties.

2. Learned Counsel for Respondent No.3 seeks leave to tender an affidavit in reply.

3. Leave granted.

4. Affidavit in reply on behalf of Respondent No.3 is taken on record.

5. The challenge in this Petition is to an order dated 9 June 2026 passed by the learned Civil Judge, Pune, whereby the application preferred by the Petitioner – Plaintiff, for appointment of the Court Commissioner to measure the suit properties and submit a report in regard to the purported encroachment, came to be rejected.

6. The principal factor which weighed with the learned Civil Judge was that the Plaintiff has relied upon a map prepared by the Taluka Inspector of

Land Records (TILR), on 16 November 2016. The Cadastral Surveyor who prepared the map has yet not been examined and, at that stage, the prayer for appointment of the Court Commissioner to have a fresh survey and measurement of the suit properties was not justifiable.

7. Mr. Damle, learned Senior Advocate for the Petitioner, on instructions, submits that the demarcation map relied upon by the Plaintiff was indeed prepared by the TILR. However, it was the claim of the Petitioner – Plaintiff that after the said map was prepared, there was further encroachment at the hands of the Defendants.

8. The said submission was strongly refuted on behalf of the Respondents – Defendants.

9. Since the cadastral surveyor who has carried out the measurement and prepared demarcation map dated 16 November 2016 has yet not been examined as a witness in proof of the alleged encroachment, the trial Court was justified in not entertaining the prayer for appointment of another Court Commissioner. In the event the Plaintiff examines the cadastral surveyor, who has carried out the measurement and prepared the map and, thereafter, the Civil Court considers it appropriate to have a fresh measurement to elucidate the matter in controversy, the Court Commissioner can be legitimately appointed.

10. Thus, the Writ Petition stands disposed with liberty to the Petitioner –

Plaintiff to file an application for appointment of the Court Commissioner after the Cadastral Surveyor who has carried out the measurement of the suit properties and prepared the map dated 16 November 2016 is examined.

11. In the event such an application is filed, the Trial Court is requested to decide the same on its own merits and in accordance with law on the basis of the material that may obtain at that stage.

(N.J.JAMADAR, J.)

Signed by: S.S.Phadke
Designation: PS To Honourable Judge
Date: 06/10/2026 11:39:18