

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4213 OF 2026

M/s. Sanvi Developers Thr. Its Partners And
Anr.

...Petitioners

Versus

Sachin Shivajirao Dodke And Ors

...Respondents

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KULKARNI

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Mr. Vivek Vijay Salunke, for the Petitioners.
Mr. Viraj Hake, for the Respondents.

CORAM: N. J. JAMADAR, J.
DATED: 8th APRIL, 2026

Oral Order:-

1. Heard the learned Counsel for the petitioners.
2. The challenge in this petition is to an order dated 24th February, 2026 passed by the learned Civil Judge, Pune, whereby the TILR, Haveli, Pune, has been appointed as a Court Commissioner to measure and demarcate the suit properties of the plaintiff and defendant and submit a report to the Court.
3. Mr. Salunke, the learned Counsel for the petitioners, submitted that the suit is instituted for injunction simpliciter. There is no prayer for removal of encroachment and recovery of possession and, therefore, the learned Judge could not have ordered the appointment of the Court Commissioner. It was

also submitted that the defendant – petitioner had carried out measurement of the properties and a report of Cadestral Surveyor is on record. It was the claim of the plaintiff that the said measurement is not correct and the plaintiff intended to file an appeal against the said measurement. In that view of the matter, the learned Judge erred in holding that the appointment of an independent surveyor would not cause prejudice to the defendants.

4. Upon perusal of the averments in the plaint, this Court finds that the plaintiff has specifically asserted that the defendant has committed encroachment over a portion of the plaintiffs property. The trial Court has recorded that the essential dispute between the parties is over the demarcation of the land. As the dispute has arisen between the parties over the boundaries of their respective properties, a joint measurement of the properties is necessary for elucidating the matter in controversy.

5. A useful reference in this context can be made to a judgment of Supreme Court in the case of *Haryana Waqf Board vs. Shanti Sarup*¹ wherein the Supreme Court has emphasised that in the case of demarcation of the disputed land, it is

1 (2008) 8 SCC 671.

appropriate for the Court to direct the investigation by appointing a local Commissioner as provided under Order XXVI Rule 9 of the Code of Civil Procedure.

6. As the impugned order has the prospect of elucidating the matter in controversy and assisting the Court in arriving at a just decision of the case, in the exercise of its supervisory jurisdiction, this Court does not find any reason to interfere with the impugned order.

7. The petition thus stands dismissed.

[N. J. JAMADAR, J.]