



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.6610 OF 2024

Shri Baburao Sambshiv Chaudhari (dead) through legal representatives
Ratna Wd/ Baburao Chaudhari and others through Power of Attorney Shri
Ashok Anandrao Mate

Vs.

Shri Narayan Vyanketi Gharshkrutiwar and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri S.S. Deshpande, Advocate for petitioner.
Shri A.M. Chandekar, Advocate for respondent nos.1 and 2.

CORAM : M.W. CHANDWANI, J.

DATE : 04.02.2026.

1. Heard learned counsel for the respective parties.
2. The petition challenges the order dated 25.11.2021 passed by the Civil Judge Junior Division, Gondpipari on Exhibit 54 rejecting the application for appointment of Court Commissioner for the purpose of measurement of the property.
3. The petitioners are the legal representatives of Baburao, who was the original plaintiff in the suit for declaration and recovery of the encroached portion of land out of suit property bearing Survey no.397. During the course of evidence, the original plaintiff filed an application for appointment of Taluka Inspector of Land Records as Court Commissioner. The said application came to be

rejected observing that there is no material on record to show that the suit property bearing survey no.397 is converted into survey no.397/3A and that the said application is an attempt to collect evidence through the Court machinery. This order is subjected to challenge by way of instant petition.

4. It is brought to the notice of this Court that the present petition is out of batch of the petitions having identical facts and issue, rather the petitioners in all the petition are same. Some of the petitions from the said batch this Court has been allowed by allowing the application for appointment of the Court Commissioner. Thus, the issue involved in the present petition is squarely covered by an earlier order passed by this Court in a similar matter i.e. Writ Petition No.6616/2024 (Baburao Sambshiv Chaudhari (dead) through LRs and others Vs. Ajay Baburao Bomkathiwar) and other connected matters decided on 02.12.2025 (Coram : Prafulla S. Khubalkar, J.). In view of this, the controversy raised herein stands concluded by the aforesaid order of this Court, and no distinguishing circumstances have been pointed out, thus the present petition deserves to be disposed of in terms of the above order.

5. Therefore, in view of the above mentioned factual and legal aspects, the writ petition is allowed.

6. The order dated 25.11.2021 passed by the Civil Judge Junior Division, Gondpipari on Exhibit 54 is quashed and set aside.

7. The application filed by the original plaintiff seeking appointment of the Court Commissioner under Order XXVI Rule 9 read with Section 151 of the Code of Civil Procedure, 1908 is allowed.

8. The petitioners are directed to bear the costs of the Court Commissioner.

9. With this, the writ petition is disposed of.

(M.W. Chandwani, J.)

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