IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 6371 OF 2025

Smt. Parvatibai Eknath Karbade
Vs.
Panjabrao Gangarmji Sonone and Ors.

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Mr. J.J. Chandurkar, Advocate for petitioner.
Mr. S.B. Gandhe, Advocate for respondent Nos.1 to 5.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 07.03.2026

Heard learned counsel for the petitioner as well as respondent Nos.1 to 5.

2. By this petition, the petitioner has challenged the order dated 25.04.2025 passed by the trial Court rejecting the application filed by the defendant for re-joint measurement of the suit property by appointing Commissioner under Order 26 Rule 9 of the Code of Civil Procedure, 1908.

3. Learned counsel for the petitioner submits that although there is a measurement map based on joint measurement, which was conducted in accordance with the order dated 08.06.2022, passed by the trial Court on

the earlier application filed under Order 24 Rule 9 of the C.P.C., by which a Cadastral Surveyor from the office of T.I.L.R., Amravati was appointed, however, the said map does not show the factual position. He further submits that despite there being directions to conduct measurement by giving notices to the plaintiff as well as adjacent land owners of the four boundaries of the suit property, no proper measurement was carried out and the measurement map based on record is defective.

4. Learned counsel for respondents points out that the measurement map on record is the third measurement by Commissioner. He submits that at the instance of plaintiff, first measurement was carried out by the Superintendent of Land Records, Amravati, which is filed on record. Thereafter, second measurement was carried out by the Deputy Superintendent of Land Records, Amravati, and thereafter, the third measurement by the Cadastral Surveyor was carried out and the said measurement map is also on record.

5. Having regards to the fact that the plaintiffs' suit is for removal of encroachment and the measurement maps based on the measurement by the Government Officials are already on record, the objections raised by the petitioners/defendants to the third measurement map cannot be a reason for re-appointment of any Court

Commissioner. It has to be noted that the petitioner is the defendant and he has already raised an objection to the measurement map vide Exhibit 49. The defendants are entitled to cross-examine the Commissioner as and when evidence is led in that regard. Thus, in case the defendants establishes that the Commissioner's report is defective and unreliable, the plaintiffs suit will be dismissed and as such, the defendants insistence for re-measurement for the fourth time is absolutely unwarranted.

6. Having given anxious consideration to the reasons recorded by the trial Court in the impugned order, I do not find any perversity warranting interference under Article 227 of the Constitution of India.

7. The writ petition is accordingly dismissed. No order as to costs.

(Prafulla S. Khubalkar, J.)

Signed by: Mrs. Prity Gabhane
Designation: PA To Honourable Judge
Date: 11/03/2026 19:39:29