

**IN THE COURT OF CIVIL JUDGE (JUNIOR DIVISION)**

**Subdivisional Civil Court- Gogari**

Title Suit No. 88/2019

Present: Kudus Ansari, Munsif, Gogari

Schedule XLII-High Court(J) 19 [Old (M)164 ]

Sl.	Date of Order of Proceedings	Order with signature of the Court	Office action taken with date
1	2	3	4
	18.05.23	<p style="text-align: center;"><b><u>ORDER</u></b></p> <p>Record is produced for hearing and order on the petition dated 24.04.2023, u/o 26 R-9 &amp; 10-A of CPC filed by the plaintiffs with prayer to appoint a survey knowing pleader Commissioner to ascertain the points mentioned in the petition. Rejoinder has also been filed on behalf of defendants on 03.05.2023.</p> <p>It has been submitted by the ld. counsel for the plaintiffs that the plaintiffs have brought this suit for declaration of title and recovery of possession over the suit land detailed in schedule-“II” of the plaint. The case of plaintiffs is that the defendants have encroached 06½ dhoor land of plaintiffs out of schedule-I and the suit land is mentioned in schedule-II of the plaint. The defendants have filed their written statements in which they have totally denied encroachment of schedule-II land.</p> <p>The Ld. Counsel for the plaintiffs prayed for the appointment of Survey Knowing Pleader Commissioner for the purpose of scientific measurement and verification of physical features of suit land.</p> <p>On the other hand ld. Counsel for the defendants submitted that the petition dated 24.04.2023 filed on behalf of plaintiffs is not maintainable. The plaintiffs want to establish the suit land through survey knowing pleader commissioner, but the land mentioned in schedule-1 is not existing and the defendants have not encroached the land mentioned in schedule-II of the plaint. Therefore the petition of plaintiffs may be rejected with cost.</p>	

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<p><u>Contin...</u> 18.05.23</p>	<p>Heard and perused the record. It appeared that the instant suit has been filed by the plaintiffs for declaration of title and recovery of possession over the suit land, but for ascertainment of the claim of the plaintiff over the suit land, the report of the survey knowing pleader commissioner on the aforesaid points will clarify the matter and would be helpful in deciding the right and title of the parties as per the present position of the suit land as well as the status of the adjoining lands. So far as the other points related with the appointment of survey knowing pleader Commissioner is concerned, it is not at all domain of the survey knowing pleader Commissioner to inquire about the character of the defendant as well as nature of inconvenience of the plaintiff related with the alleged dispossession but in case of recovery of possession it is warranted to appoint pleader commissioner for bringing the true picture. In the instant case to ascertain the exact position of the suit land through scientific investigation and to adjudicate the matter in dispute, report on the aforesaid points would be helpful.</p> <p>In the light of aforesaid discussion and having regard to the facts and circumstances of this case, the petition of the plaintiffs dated 24/04/2023 is allowed at the cost of the plaintiffs. Let a letter of request be sent to the learned District Judge, Khagaria for appointment of survey knowing pleader Commissioner to report on the following points.</p> <ol style="list-style-type: none"><li>1. What is the physical features of Schedule-I and schedule-II land mentioned in plaint ?</li><li>2. What is the present configuration of the Survey plot/Khesara No. 606 on the spot?</li><li>3. What is/are the structures present over Khesara No. 606 or its block(s)?</li></ol>	
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<p><u>Contin...</u> 18.05.23</p>	<p>4. Whether the suit land is amalgamated with any other adjoining land? If yes to which plot(s)?</p> <p>5. Any other points raised at the time of measurement be also investigated and reported?</p> <p>The learned survey knowing pleader Commissioner is directed to submit his/her report within 15 days from the date of issuance of writ to him/her. Survey knowing Pleader Commissioner's fee will be Rs. 3000/-. The plaintiffs are directed to file the requisites as well as deposit the survey knowing pleader Commissioner's fee as aforesaid, for issuance of writ.</p> <p>Put up on 30.05.2023 for further proceeding.</p> <p>Dictated</p> <p>Munsif, Gogari</p>	
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