

ORDER BELOW EXHIBIT-22

1) Read this application, perused the record. Heard the L.A. for the parties.

2) This application is given by the applicant (Original plaintiff) for appointment of Commissioner through DILR, Dahod for inspection and for determining the exact measurement of the property in question. The Ld. Advocate for the applicant has further stated that the present suit has been filed for encroachment made by the respondent (Original defendant). In the suit property, there is a shade at the southern side of the applicant's as well as at the northern side of the property owned by the respondent but some time ago, the present respondents have destroyed the shade situated at the above mentioned location and made the encroachment in the suit property at the southern side of the applicant's property and the respondents have also constructed the wall over the southern side of the suit property. Therefore, the applicant has filed the present application for appointment of DILR, Dahod for inspection and for determining the exact measurement of the property having R.S. No.117/1 Paiki Account No.134 admeasuring 00-13-15 Ac.Are.Sq.Mtr. and for property mentioned in para-2 of the plaint which is a restricted property as per Section 73AA

of the Land Revenue Code.

3) The Ld. Advocate for the respondent has submitted his reply vide Exh. 23 wherein he has denied the facts narrated in the present application in toto. The Ld. Advocate for the respondent has further stated that the applicant has not mentioned the exact measurement and location of the suit property while filing the present suit vide Exh.1 and also not mentioned in temporary injunction application given vide Exh.5. Furthermore, the fact stated by the application regarding the act of destroying the shade by the defendant, such fact is false and upon such fact, the application has not produced any evidence in support of proving of the same. Therefore, the application filed by the applicant is false and not tenable and accordingly deserves to be rejected with cost.

4) Heard the Ld. Advocates for the parties. Looking to the facts and circumstances of the matter and before deciding the matter on hand, it is necessary to bring on record the exact picture of the area in question mentioned in this application. Therefore, considering the kind of issue in this matter, I found that measurement of properties will help this court to serve justice and to get real position of the subject matter of this suit on

record and to get judicious end of the matter in hand hence in larger interest of justice, I pass the following order:

-: O R D E R :-

- 1) This application is hereby allowed.
- 2) The District Inspector Land Record, Dahod is hereby appointed as court commissioner. He is directed to record the Punchnama and draw the map to the disputed property shown in R.S. No.117/1 Paiki Account No.134 admeasuring 00-13-15 Ac.Are.Sq.Mtr. as per their document relating to their ownership of property after giving notice to parties and panchas well in advance and shall produce his report on or before **09/12/2022**.
- 3) The applicant is hereby directed to deposit Rs.10,000/- (Ten Thousand Rupees Only) as the remuneration of the court commissioner within three (03) days from the date of this order.
- 4) Court commissioner letter be issued on deposit of the commissioner fees as per rule.

Pronounced in open Court, today on this 29th day of November, 2022.

Date : 29/11/2022

Dahod

(Nimisha Gangarambhai Surati)

Principal Senior Civil Judge,

(GJ-00711) Dahod.