

OS No: 51/2022

Date: 11.07.2024

Plaintiff by Sri. P.D. Adv.,
D1 & 2 by Sri. G.P.R. Adv.,
For Orders.

**ORDER ON APPLICATION U/O 26 RULE 9 R/W 151
OF CPC**

The plaintiff has filed this application under Order 26 Rule 9 of CPC praying to appoint the taluka ADLR Sedam as Court Commissioner to conduct survey of the suit property.

The reasons ventilated by the plaintiff in the affidavit annexed to the application are that, the suit is one filed for recovery of possession of the suit property. It is submitted that plaintiff is denying that the demarcation of panchnama and map issued by ADLR Sedam with respect to the southern side of the suit property. If the suit property is demarked once again, then the suit will be finally gets disposed of.

On the other hand, the defendants submitted no objections.

Heard both the counsels.

The instant suit is filed for recovery of possession.

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The object of appointing commissioner is to note the factual circumstances in the spot which may not procured by any amount of oral and documentary evidence. The intention of the legislature to enact Order 26 Rule 9 is to circumvent of the unambiguous evidence which are placed on record. On the other hand, no prejudice will be caused to the defendants. The defendants are permitted to file separate work memo to the court commissioner if necessary at the spot.

ORDER

Application filed by the plaintiff under Order 26 Rule 9 r/w. Sec.151 of C.P.C. is hereby allowed.

Plaintiff is hereby directed to deposit the Commissioner Fee of Rs. 2,000/-.

ADLR Sedam is hereby appointed as court commissioner.

Both the parties and commissioner are hereby directed to be present at the spot on the day fixed for demarcation of commissioner warrant.

Further, office is hereby directed to send intimation along with the memo of

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instructions to the survey authority with regard to fixing of date of survey. It is further directed to the court commissioner to file a report on or before 24/08/24.

Office is further hereby directed to send commissioner warrant after deposit of the Commissioner fees fixed by this court and fixed by this court and payment of necessary process fees.

Await commissioner report.

Call on 24-8-2024.

Sd/-

C.J. & JMFC. Sedam

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