

SPCS/36/2018
ORDER BELOW EXH- 6

1. By this order I shall dispose of this application with the prayer of local investigation of the disputed property which is the subject matter of this suit.
2. Learned Advocate for the plaintiff has submitted that the plaintiffs are illiterate people and taking advantage of their illiteracy the defendants have got executed the sale deed of the property which was not under the terms of their contract i.e the Banakhat. Therefore, the spot inspection of the suit property by court commissioner is required to bring on record the actual existing position at field. he has further submitted that the defendants are trying to break the wall with the help of JCB machines, therefore, this application. Learned Advocate for the plaintiff has, further, submitted that local inspection of the suit property will not make any harm to the defendant.
3. *Per contra*, Learned Advocate for the defendant has submitted that the plaintiff has mislead the facts. They had entered into an agreement for all four land i.e Survey No. 207/1, 207/2, 361 and 362. The plaintiffs have knowingly not placed on record the

fourth page of the banakhat wherein Survey Nos. 361 and 362 are mentioned. The plaintiffs' say is *suppressio vary and suppressio falsi*. The defendants have not made any misrepresentation to the plaintiff to get sale deed executed which is the subject matter of this suit. Therefore, the application may be rejected.

4. Considering all the contentions raised by both the sides, considering Mark- 3/2 i.e Banakhat, and keeping in mind Rule 9 of the Order 26 of the Code of Civil Procedure, 1908 and Rule 7 of the Order 39 of the Code of Civil Procedure, 1908, I do not find any justifiable reason for granting this application. Therefore, this application stands disposed of.

5. No Order as to cost.

Pronounced in the open Court today i.e. 3rd August, 2018.

Place	: KHEDA	(PRIYADARSHINI PINAKINBHAI MOKASHI)
		Principal Senior Civil Judge, And, ACJM
Date	: 03-08-2018	Code No. GJ00654