

MHAH070003062008



ORDER PASSED BELOW EXH. 25 IN M.C.A. 25/2008
(Suresh Murlidhar Khidke Vs. Swati Vivek Pataskar & Ors.)

1. Instant application at the instance of appellant, filed under Order 26 Rule 9 of the Code of Civil Procedure seeks the appointment of Dy. Superintendent of Land Records, Sangamner as a Court Commissioner for measuring the encroachment and construction made on the lands bearing S.No. 50(3+4)24 and land S.No. (3+5)47, both situated within the local limits of Sangamner Municipal Council, Tal. Sangamner, Dist. Ahmednagar.

2. It is appellant's contentions that inspite of status-quo order been passed in the instant appeal, respondents have encroached upon the suit properties and have accordingly, acted against the dictates of the interim order passed in the appeal. Accordingly, contended that measurement would be required to be done through the Dy. Superintendent of Land Records, Sangamner. Thus, this application. Respondents through their say endorsed on the application itself, have conceded no objection to the said request of getting measurement done of the suit properties through the Dy. Superintendent of Land Records, Sangamner.

3. As, it has been the appellant's case that the respondents having breached the interim order in the appeal and of having encroached the suit properties and seeking measurement through Dy.S.L.R. Sangamner, hence, applicant would have to bear the necessary costs and expenses for getting the suit properties measured through the Dy.S.L.R. Sangamner. Hence, the following order :

: ORDER :

1. Application (Exh. 25) stands allowed.
2. The Dy. Superintendent of Land Records, Sangamner is hereby appointed as Court Commissioner to make local investigation, by conducting measurement of the suit properties bearing S.No. 50(3+4)24 and land S.No. (3+5)47, both situated within the local limits of Sangamner Municipal Council, Tal. Sangamner, Dist. Ahmednagar, as per the prescribed procedure.
3. The Court Commissioner to measure the aforesaid suit properties and point out it's actual circumstances.
4. The Court Commissioner also to take photographs of the suit properties, if required and file it with his report. He is at liberty to take assistance of professional photographer to snap photographs about the circumstances at the aforesaid suit properties.
5. The Court Commissioner to take into consideration the necessary and previous records maintained by the concerned local authorities pertaining to the aforesaid suit properties.

6. The Court Commissioner's fees to be paid in the concerned Dy.S.L.R. office, Sangamner as per prescribed rules for measurement and by Government Challan and same shall be borne by the appellant. Other costs and expenses, if any, required to be incurred, for carrying out the said measurement, shall also be borne by the appellant.
7. The Court Commissioner shall submit his report within 30 days from the date of receipt of this order.
8. Accordingly the application is disposed-of.

Date - 30/11/2022.

(**Y.H. Ameta**)
District Judge-1,
Sangamner