

Order below Exh.85 in R.C.S No.75/2011

(CNR No. : MHAH08-0026612014)

This application moved by the defendants stating that, Court Commissioner be directed to produce the report as per order passed below Exh.23,30,37 and 43.

2. In short, the defendants stated that, as per order passed below Exh.23 Court Commissioner has been appointed for the measurement of the land and filing report. On issuing commission the Court Commissioner has not complied the order and kept the lacuna in the report. So, again Court Commissioner issued as per order Exh.30,37 and 43. Still then Court Commissioner has not shown the boundaries of road and actual boundaries in the map. Hence, this application.

3. By filing say plaintiff has no objection on it.

4. Perused the record. Heard the counsel. The Court Commissioner Assistant Superintendent of Land Record, Sangamner filed his report below Exh.84. Wherein, he specifically stated that, as per order passed below Exh.30,37 and 43 he has demarcated the Gat No. 31 and applied it. In that respect mutation entry as per no.3202 effected. Along-with this he has affix a copy of mutation.

5. Now, again this plaintiffs and defendants raised the objection as stated above. After considering the nature of suit and the relief claimed by the plaintiffs, Court Commissioner has produced his report along-with the map as per order Exh.30,37 and 43 time and again. Now, the said objection is not considerable unless there is evidence of both the side regarding the disputed aspect. It is true that, Court Commissioner has appointed to know

the factual position regarding the suit property. In that case Court Commissioner has produced the report. It is a part and parcel of the record and evidence. Even if it is having some lacuna it can be required to be shown and proved by cogent evidence by the parties. So, mere stating that, Court Commissioner has not done work properly as per order is not sufficient at this juncture. The case is more than 10 years old. Hence, I pass the following order.

: ORDER :

- 1) Application is rejected.
- 2) Both the parties are hereby directed to expedite the trial of the suit and lead their evidence.
- 3) Parties to take note.

Date : 13/01/2025
Sangamner.

(D.H. Dabhade)
3rd Jt. Civil Judge, Senior Division.,
Sangamner. J.O Code-MH00263