

ORDER BELOW EXH. 5 IN R.C.S. NO. 459/2015.

1] Present application is filed by the plaintiffs for appointment of Court Commissioner to measure the agricultural suit land block No. 200/1, admeasuring 03 H. 20 R., situated within the precinct of village Napawadi, Tal. Rahata, Dist. Ahmednagar. It has alleged by the plaintiffs that the above suit land is owned and possessed by them. Defendant Nos. 1 to 6 have their land block No. 200/2 towards eastern side, defendant Nos. 7 to 9 have their land block No. 199/2 and defendant Nos. 10 and 11 have their land block No. 199/3 towards southern side adjacent to the suit land of plaintiffs. Plaintiffs have also land block No. 199/1/A towards southern side. There is east-west bundh existed between the suit lands and land of defendant Nos. 7 to 11. There is also land of defendant Nos. 12 and 13 towards the northern side of plaintiffs land. There is also bundh existed between the suit lands of plaintiffs and defendant Nos. 12 and 13.

2] There is frequent dispute between the parties on the said bundhs. The plaintiffs have also alleged that defendant Nos. 1 to 6 have tried to cause damage to said bundhs by Tractor and tried to obstruct the peaceful possession of the plaintiffs over the suit land. Defendant Nos. 1 to 6 denied the request of measurement of lands. Therefore, the plaintiffs urged for measurement of the suit land.

3] Defendant Nos. 5 and 6 have filed their say at Exh. 16. The plaintiffs have no grievance against defendant Nos. 7 to 14.

4] Defendant Nos. 5 and 6 have resisted the contentions made by the plaintiffs. They have contended that application filed by the plaintiffs is not bonafide, tenable and legal. The plaintiffs have their land block No. 200/2 from many years and there is bundh from many years as it is. Therefore, defendants have not causing damage to the common bundh existed between lands of the parties. Therefore, these defendants contrary urged for rejection of the plaintiffs application.

5] Heard both sides. Perused 7/12 extracts of agricultural suit lands block No. 200/1, 200/2, 199/2, 201/1/C/2/3 199/3 and 199/1/A filed by the plaintiffs on record. It shows that the said suit lands are standing in the name of the plaintiffs and defendants. As per contentions in application, defendant Nos. 1 to 6 tried to cause damage to the east-west bundh existed between the suit lands and land of defendants. The contesting defendants also admitting that, there is common bundh between both the lands. Thus, it can be gathered that lands of both the parties are adjacent to each other. In such circumstances, it is necessary to have a factual position on record regarding the suit lands, having regard the nature of controversy between the parties. Therefore, in view of Order XXVI Rule 9 of Civil Procedure Code, it deems a local investigation to be requisite and proper for the purpose of elucidating the matter in dispute between the parties.

6] Thus, Deputy Superintendent of Land Record needs to be appointed as a Court Commissioner with direction to measure the suit lands block No. 200/1, admeasuring 03 H. 20 R. belonging

to the plaintiffs to ascertain four boundaries of the suit lands as it will be helpful for the Court in deciding the matter in dispute between the parties. Thus, the following order :-

ORDER

- a) Application is allowed.
- b) Deputy Superintendent of Land Record, Rahata is hereby appointed as Court Commissioner.
- c) He shall measure the suit land block No. 200/1, admeasuring 03 H. 20 R., situated within the precinct of village Napawadi, Tal. Rahata, Dist. Ahmednagar belongs to the plaintiffs along with the land holders on the four boundaries of the above lands by giving exact position and ascertaining four boundaries.
- d) The commissioner shall follow the procedure of measurement as prescribed by rules, strictly.
- e) Deputy Superintendent of Land Record or Superintendent of land record and all higher level officers, should make available requisite public record and or certified copies there of for execution of commission.
- f) The Commissioner shall submit his detailed report along with map by showing encroachment if any, to this Court within two months.
- g) Cost of commission shall be borne by the plaintiffs.
- h) The plaintiffs are directed to deposit necessary expenses in the office of the Deputy Superintendent of Land Record, Rahata forthwith.
- i) Issue writ on payment of process fee accordingly.

Rahata.
Date :- 01/08/2016.

(Suhas P. Bhosale)
2nd Jt. Civil Judge, J. D., Rahata.