

ORDER BELOW EXH. 41 IN R.C.S. NO. 349/2016.

[CNR-MHAH17-004561-2016]

1] Present application is filed by the defendant Nos. 5 to 7 for appointment of court commissioner and to re-measure the agricultural suit properties situated within the precinct of village Kolkhar Bk., Taluka Rahata, District Ahmednagar. It has alleged by the defendant Nos. 5 to 7 that as per order at Exh. 13, Court Commission was appointed and he measured the suit properly on 23/05/2017. After measurement concerned land surveyor submitted report to the Court. That report was disputed by defendant Nos. 5 to 7 alleging that concerned measurer not followed procedure and failed to measure the suit properties of defendant Nos. 5 to 7. Therefore, the defendant Nos. 5 to 7 prayed that measurement of their land through the Court Commissioner be ordered and cost of the said commissioner be recovered from plaintiff.

2] Plaintiff filed say and objected the application.

3] From the record it shows that plaintiff filed application at Exh. 13 for appointment of Court Commissioner. That was allowed by this Court. Concerned T. I. L. R. after measurement submitted report dated 23/05/2017. Now, defendant Nos. 5 to 7 want to measure their land by T.I.L.R. Earlier Court Commissioner was appointed and he has submitted his report. After appointment of Court Commissioner he may be examined by following due process of law. He may be examined on the point of his conclusion and whatever the happened at the time of measurement. For the

purpose of collecting evidence Court Commissioner cannot be appointed. By conducting of cross-examination of Court Commissioner his conclusion can be rebutted to the particular extent. Court Commissioner not acted as per order of this Court and failed to measure suit property this question can be asked him during the course of his cross examination. Therefore, application for re-measurement of suit properties cannot be filed and maintainable. Hence, I proceed to pass following order :-

ORDER

Application is rejected.

Rahata.

Date :- 21/09/2018.

(K. B. Kamagauda)

Civil Judge, J. D.,

Rahata.