

**ORDER BELOW EXH.08 IN R.C.S.NO.24/2013.**  
**(MHAH190000672013)**

01. The plaintiff has filed present application for appointment of Deputy Superintendent of Land Record, Shevgaon as Court Commissioner for joint measurement of land Gat No. 145, 146 along with *pothissa* situated at village Akhatvade, Tal. Shevgaon, Dist. Ahmednagar to ascertain whether defendants have made any encroachment over plaintiff's property. They have further prayed that in order to resolve the dispute full and finally, Deputy Superintendent of Land Record be appointed as Court Commissioner. They are ready to bear the expenses of commission. Lastly, prayed that application be allowed.

02. The defendant No. 7 has resisted the application by filing written statement cum say Exh. 21. It is his contention that, application is not tenable in the eye of law. The reason given by the plaintiffs for appointment of court commissioner is not good. The court commissioner cannot be appointed for collection of evidence. Old survey No. 34 is divided in land Gat No. 145 and 338. Therefore, all Gat numbers are required to be measured, collectively. Therefore, application be rejected.

03. Heard both side at length. Considering the rival submissions, it appears that plaintiff has come with the case that defendants have made encroachment of 16R on his property. In such situation, in order to ascertain whether defendants have made encroachment over their land or not ? This fact is required to be ascertained by appointment of Court Commissioner. In order to ascertain exact encroachment if any by defendants, Court Commission is required to be appointed. Considering the facts and circumstances of the

case, appointment of court commissioner in this case is necessary to avoid multiplicity of suits. Hence, I pass following order :-

-: ORDER :-

1. Application is allowed.
2. Deputy Superintendent of Land Record, Shevgaon is hereby appointed as a Court Commissioner to visit for joint measurement of land Gat No. 145, 146 along with *pothissa* situated at village Akhatvade, Tal. Shevgaon, Dist. Ahmednagar to ascertain whether defendants have made any encroachment over plaintiff's property or not ? After giving in writing notice to both the parties or their advocates regarding day and time of his visit for commission work to the suit filed and asking them to remain present at the time of commission work. Both the parties are directed to appear before the Commissioner accordingly.
3. The Court Commissioner is directed to submit his report along with map as to his visit and local investigation on or before **07/04/2020**.
4. The plaintiff is directed to deposit Commissioners fees at concerned office on or before **17/03/2020**.
5. Issue commission letter accordingly to the court Commissioner.

Date:-28/02/2020.

( Manoj C. Nepte )  
Civil Judge, Junior Division,  
Shevgaon.