

ORDER BELOW EXH.36 IN R.C.S.NO.269/2016.
(CNR : MHAH190008652016)

01. Plaintiff has filed this application for appointment of Court Commissioner under Order XVI, Rule 9 of C.P.C. with the prayer that court commissioner do measurement of suit land and find out encroachment.

02. Defendant strongly resisted the application by filing say at Exh.39.

03. Heard. Perused record.

04. Plaintiff has filed this suit for the recovery of 10 are portion encroached by defendant Nos.1 to 4. Plaintiff in the present application specifically contended that on 15/05/2016, plaintiff got suit land measured personally by private person and found 10 are encroachment over his land. Yet plaintiff not stepped into the witness box as to testify himself as to the facts stated in the suit. As well as no primary evidence is adduced as to private measurement of his suit land. In absence of above evidence appointment of Court Commissioner is nothing but to collect evidence on behalf of plaintiff. At this juncture, this Court is not of the view that Court Commissioner is required for elucidating matter in dispute. Hence, for aforesaid reasons, application is not justified. Therefore, I pass the following order :-

ORDER

- (1) Application is hereby rejected.
- (2) No order as to costs.

Place : Shevgaon
Dtd. 23/10/2019

(Shrikant Ade)
Jt. Civil Judge, Jr. Division,
Shevgaon.