

ORDER BELOW EXH.45 IN R.C.S.NO.466/2015.
(MHAH190017072015)

1. Plaintiff has filed this application under Order-26, Rule-9 of C.P.C. for appointment of Court commissioner in order to inspect suit property and report about the unauthorized tin tapary construction by defendant.
2. Defendant resisted the application by filing say at Exh.46.
3. Heard. Perused record.
4. Plaintiff has filed this suit with prayer for preventive injunction thereby sought to prevent defendants from unauthorized plinth construction as well as sought possession of encroached portion. By this application plaintiff contended that recently defendant have constructed 12 x 15 tin tapari and this facts is required to be brought on record. From the pleading of plaintiff and contention of this application the construction of tin tapari was not in dispute at the time of institution of suit as well as no issues framed in this regard. Therefore, court commissioner can not be appointed for what was not pleaded and disputed. The present application is nothing but to prolong the suit and to collect evidence beyond pleading. Hence, deserves to be rejected. Therefore for aforesaid reasons, I pass the following order.

ORDER

- (1) Application is hereby rejected.
- (2) Costs to cause in suit.

Place : Shevgaon
Date 15/03/2021

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