

MHAH200000112010



Regular Civil Suit No.4/2010
Sindhubai Deshmukh & Ors
Vs.
Chandrakala Deshmukh

ORDER PASSED BELOW EXH.89

This is an application filed by plaintiffs under Order XXVI Rule 9 of the Civil Procedure Code, 1908 for appointment of Court Commissioner for local investigation and inspection.

2. This suit is for removal of encroachment which is remanded back in appeal from the Hon'ble District Court, Ahmednagar (*Hereinafter referred as "Hon'ble Appellate Court"*) to this Court on the ground stating that, T.I.L.R. has not adopted proper procedure while measuring the suit land. Therefore, parties should not suffer loss due to the Court Commissioner has not adopted a correct procedure of measurement.

3. Sufficient opportunity was given to the defendant to file his say. However, say is not filed. Hence, this application proceeded without her say. Heard Ld. advocate for plaintiffs.

4. It is the case of plaintiffs that, defendant encroached area of 9.00 R over suit land from southern side. Accordingly, my learned predecessor framed issue on 25.06.2010 at Exh.18. While remanding back this case, Hon'ble Appellate Court has given specific directions to this Court to re-measure the suit land

bearing Gat No.22 and land of the defendant bearing Gat no.56 by appointment of T.I.L.R as Court Commissioner. Plaintiffs are ready to bear the expenses for appointment of Court Commissioner. In view of directions given by the Hon'ble Appellate Court in the Judgment dated 25.05.2022 (Exh.82), I pass the following order.

ORDER

1. Application is allowed.
2. T.I.L.R. Pathardi is appointed as Court Commissioner for carrying out survey and joint measurements of suit land bearing Gat no.22 and land of the defendant bearing Gat no.56 and shall specify in the report the encroachment in the suit land if any, and prepare and submit map to this Court accordingly.
3. The Measurement Surveyor is directed to strictly adhere to the Survey Manual. He shall take help of original Tipan Record, 7/12 extracts and other appropriate official records and to issue notices to parties about the date of measurement.
4. Plaintiff to provide necessary documents to Court Commissioner including pleadings of both parties and shall pay requisite fees in the concerned department.
5. Court commissioner shall carry out the commission as early as possible and submit the report within 60 days from

today.

6. If the Court Commissioner is failed to submit the report within 60 days, then, he shall seek further time with specific reasons. Otherwise, it will be taken as a disobedience of this Court.
7. Issue writ of Commission accordingly.

Pathardi

Date:18.08.2022

(Mayur Dilipsingh Gautam)

Civil Judge Junior Division,

Court No.3, Pathardi.

C E R T I F I C A T E

I affirm that, the contents of this P.D.F file are same, word to word, and as per the original order.

Name:	S.S. Taur
Designation:	Jr. Clerk
Name of the P.O.:	Mayur Dilipsingh Gautam
Designation:	C.J.J.D and J.M.F.C., Pathardi.
Order signed by P.O. On:	18.08.2022
Order uploaded on:	18.08.2022