

ORDER BELOW EXH. 20

(Machindra &Ors. Vs. Sindhu & Ors.)

The plaintiffs have filed this application under Order XXVI, Rule 09 of the Code of Civil Procedure, 1908 (for short C.P.C.) for appointment of Deputy Superintendent of Land Record, Jamkhed as Court Commissioner.

2. Perused the application and say filed thereon.

3. Heard Shri. A. B. Kore, learned advocate for the plaintiffs and Shri. M. N. Nagargoje for defendants No. 1 to 4.

4. It is submitted that, to resolve the dispute between the parties it is necessary to measure and to make the demarcation of four boundaries of the suit land through Deputy Superintendent of Land Record, Jamkhed. Accordingly, learned Adv. Shri. A. B. Kore for the plaintiffs prayed to allow the application. Per contra, learned Advocate Shri. M. N. Nagargoje submitted at bar that, the plaintiffs have not specifically mentioned the description of property in their application. Therefore, he has taken the objection for allowing the present application.

5. It appears that, the suit was proceeded Ex-parte against the defendant Nos. 5 to 13. The objection raised by the defendant Nos. 1 to 4 appears to be not justifiable as such in claim clause 4 the plaintiffs have specifically mentioned the suit land as well as mentioned the Gat No. 277 is belongs to plaintiffs and Gat No. 279 is belongs to defendant Nos. 1 to 4. The plaintiffs also mentioned that, Gat No. 276 is belongs to defendant Nos. 7 to 11, Gat No. 278 is belongs to defendant No. 12 and Gat No. 277 and 280 is belongs to defendant No. 13. In such circumstances, though the plaintiffs have not specified the four boundaries, but they have specifically mentioned about suit land.

6. Moreover, on application Exh. 5 i.e. temporary

injunction application, the learned Advocate Shri. M. N. Nagargoje also given his undertaking that, he has no objection to measure the suit land. Considering the factual matrix of matter and nature of suit for elucidating the matter in dispute, I am of the view that, it would be just and proper to appoint the Deputy Superintendent of Land Record, Jamkhed as a Court Commissioner for measurement of suit land. Hence, following order is passed.

Order

1. Application (Exh.20) is allowed.
2. Deputy Superintendent of Land Record, Jamkhed is appointed as Court Commissioner to measure the suit field described in clause-1 of the plaint including the land of defendants and all neighbouring co-sharers, after giving in writing notices to all the parties regarding the day, date and time of his commission work to the suit field and asking them to remain present at the time of commission work at the suit field.
3. The plaintiffs are directed to appear before Court Commissioner accordingly.
4. The Court Commissioner is directed to measure the suit field and submit his report thereof on or before **30.06.2023**.
5. The plaintiffs are directed to deposit the requisite fees of Court Commissioner in the office of Deputy Superintendent of Land Record, Jamkhed.
6. Issue commission letter accordingly.

Date: 04/05/2023

(Rajnikant S.Jagtap)
Jt.Civil Judge Junior Division,
Jamkhed.