

MHAH220007682020



**ORDER BELOW EXH.52**  
(Passed on 04<sup>th</sup> September, 2023)

The present application filed by plaintiffs for appointment of a court commissioner for correction of measurement map and report.

2. It is contentions of plaintiffs that they filed an application for measurement of the suit property below Exh.9, accordingly, said measurement application was allowed. Later on, on 25/04/2022 the measurer measured the suit property, accordingly, the measurer filed his report along with measurement map on record.

3. It is further contentions of plaintiffs that in said measurement their 1 H 40 R less agricultural land was shown in map. Plaintiffs further contended that 1 H 23 R excess land shown of the defendant No.3 to 14. Plaintiffs further contended that 17 R excess land shown of the defendant No.1 and 2. Plaintiffs further contended that measurement map is wrong. Therefore, plaintiffs filed the present application and prayed to allow the same.

4. Defendant no.1, 2, 8 and 9 filed their say overleaf of the present application, wherein, they submitted that on 06/12/2022 the measurer filed measurement map along with report. Defendants further contended that plaintiffs are trying

collect an evidence. Present application is false and illegal. Therefore, defendants prayed to reject present application.

5. Defendant no.10 to 14 failed to file their say to the present application, therefore, present application proceeded without say of them.

6. As per an order passed below Exh.1 dated 02/02/2021 the present suit is proceeded ex parte against defendant no.3, 4, 6 to 7(b)(2). As per an order passed below Exh.1 dated 11/10/2021 the present suit is proceeded ex parte against defendant no.5. As per an order passed below Exh.1 dated 09/03/2021 the present suit is proceeded ex parte against defendant no.7(b)(3).

7. Heard learned advocate Mr. S. J. Wakade for plaintiffs. Also heard learned advocate Mr. N. S. Fonde for defendant no.1, 2, 8 and 9. Also heard learned advocate Mr. R. D. Raut for defendant no.10 to 14.

8. Perused the record. After perusal of record it appears that the present suit filed by plaintiffs for perpetual injunction.

9. After perusal of record it is clear that on 10/08/2020 plaintiffs filed a measurement application for measurement of the suit property below Exh. 5, accordingly, on 10/02/2022 said application was allowed. After perusal of record it also appears that after measurement of the suit property the measurer filed his report on 18/11/2022 in the court.

10. After perusal of the present application it is clear that plaintiffs filed the present application for correction of measurement map and report of suit property on the ground that in measurement

their 1 H 40 R less agricultural land was shown in map, furthermore, 1 H 23 R excess land shown in map of the defendant No.3 to 14 as well as 17 R excess land shown in map of the defendant No.1 and 2. It is pertinent to note here that in any suit the court may issue a commission to make a local investigation and report thereon to the court. It is pertinent to note here that already the suit property is measured, accordingly, the measurer filed his report on 18/11/2022 in the court. Furthermore, plaintiffs filed the present suit only for perpetual injunction. After perusal of plaint it is clear that plaintiffs prayed that restrained defendants their servants, relatives and contractors from disturbing their peaceful possession over the suit property. Furthermore, it is the simplicitor injunction suit. Moreover, the present suit is not for recovery of possession. Furthermore, by filing the present application plaintiffs are trying to collect an evidence. It is pertinent to note here that reasons mentioned in the present application for correction of measurement map and report of the suit property is not a proper. Therefore, the present application of plaintiffs is deserves to be rejected. Therefore, in the interest of justice I proceed to pass the following order.

**ORDER**

The present application is hereby rejected.

(Pronounced and dictated in the open court)

sd/-

Date:- 04/09/2023

Mohmad Wasim Akram  
S/o Mohmad Jalal Sheaikh  
Civil Judge Junior Division  
Karjat.