

ORDER BELOW EXH. 5 IN R.C.S. No. 47/2025.

1] Present application has been placed on plaintiff's behalf under Order XXVI Rule 9 of Code of Civil Procedure 1908 for appointment of Court Commissioner to undertake the measurement of suit property i.e. agricultural land bearing Gat no.253, situated within the limit of village *Loni Vyanknath*, Tal. Shrigonda, Dist. Ahmednagar, for the purpose of specification of boundaries and to ascertain encroachment alleged to have been made by defendants. Defendants nos.1, 3 and 6 to 14 are served with the suit summons, however they failed to appear to answer the claim of the plaintiff. Hence, suit is ordered to be proceeded *ex-parte* against defendant nos.1, 3 and 6 to 14. Defendants No.2, 4 & 5 are appeared in the suit, however they failed to submit their written statement. Hence, suit is ordered to be proceeded without written statement of defendants no. 2, 4 & 5.

2] From the overall contention of the plaintiff and 7/12 extract produced on record, it appears that the land of plaintiff and defendants is situated in Gat No. 253 of village *Loni Vyanknath*. Plaintiff and defendants seems to be adjacent owners of each other. It is contention of the plaintiff that some of the defendants have made encroachment over his land. From the overall contention of the plaintiff, it also appears that, there is a boundary dispute between the parties. Therefore, controversy between the parties pertains to alleged encroachment and boundary dispute, is essential to be resolved on the basis of cogent and concrete evidence. Therefore, for ascertaining the fact pertains to alleged

encroachment and boundary dispute between the parties, the land of plaintiff as well as defendants is essential to get measured through Deputy Superintendent of Land Record by appointing him as Court Commissioner. It is settled position of law that, whenever there is a boundary dispute, said fact must be elucidated by way of directing the local inspection to be done by Court Commissioner. The report of Court Commissioner and map prepared by court commissioner after undertaking the measurement of the land of both the parties, would be crucial evidence for ascertaining the facts with regards to alleged encroachment and boundary dispute. Therefore, in order to determine the real question into controversy between the parties, internal measurement of the land bearing Gat no. 253, situated within the limit of village *Loni Vyanknath* is essential to be undertaken. Considering above facts and circumstances, I pass following order :-

:: ORDER ::

1. Application is allowed.
2. Deputy Superintendent of Land Records, Shrigonda, Dist. Ahmednagar is hereby appointed as Court Commissioner for carrying the internal measurement of land bearing Gat no. 253, situated within the limit of Village *Loni Vyanknath*, Tal. Shrigonda, Dist. Ahmednagar.
3. Deputy Superintendent of Land Records, Shrigonda is directed to undertake an internal measurement of land bearing Gat no.253, situated within the limit of Village,

Loni Vyanknath, Tal. Shrigonda, Dist. Ahmednagar and submit his report whether encroachment over the land of plaintiff is found, if so, to what extent and by which defendant/defendants, along with specifying the boundaries of the land of plaintiff and defendants in Gat no.253, on or before 09/03/2026.

4. Plaintiff is directed to pay the fees of measurement and make the necessary compliance.
5. Issue writ, accordingly.

Shrigonda.
Date :- 28/01/2026.

(H. J. Pathan)
2nd Jt. Civil Judge (S.D.), Shrigonda.