

Order below exh.66 in R.C.S.No. 123/2011

This application is filed by plaintiff for appointment of court commissioner. It is contended that the suit is filed by the plaintiff for measurement of the suit property and injunction. The evidence of the plaintiff is over. The plaintiff issued witness summons to the court commissioner namely Shri. R.N. Bhosale who has done the measurement work. But the said witness is reported to be dead as per the bailiff report. Now the plaintiff contends that the suit is totally based on the measurement of the suit property and the map filed by the concerned court commissioner. If the said map is not proved by examining the concerned court commissioner the plaintiff cannot proceed further. Hence, the plaintiff has prayed to another measurement of the suit property and prayed for appointment of court commissioner. The plaintiff further prayed for measurement of gat no. 175 and directions be given to show the encroached portion in the map. Lastly, the plaintiff prays for allow the application.

2. The defendants were given sufficient opportunity to file their say. But defendants failed to file their say to the present application. Hence, the present application will proceed without say of the defendants.

3. In support, the plaintiffs have filed their affidavit at exh.67. The contentions of the plaintiffs have remained unchallenged as defendants failed to file their say. To arrive at the right conclusion, it is necessary to appoint the court commissioner and he must be directed to file his report alongwith map on record. Then definitely it will assist the court at the time of evidence.

4. Under these circumstances, if application is allowed, then defendants will not suffer any loss by any way and if the application is rejected, the plaintiff may suffer loss. Moreover, if the application is allowed then it will assist the Court to arrive at the right conclusion, therefore I am of the considered view that, the appointment of the Court Commission is necessary. Hence, I proceed to pass the following order.

ORDER

1. Application exh.66 is allowed.
2. T.I.L.R., Parner is hereby appointed as court commissioner.
3. T.I.L.R Parner is hereby directed to carry measurement of suit property gat no. 175 and fix the boundaries as per the prayer clause of Exh.66 and submit his report alongwith map.
4. The TILR, Parner is directed to give notices to both the parties before commission work well in advance.
5. The plaintiffs are directed to deposit commission fees in concerned office directly.
6. Issue commission letter on P.F.

Date: 10/01/2019.

sd/-
(M.A.Pathan)
Civil Judge Jr. Division,
Parner