

**Order below Exh. No.128**  
(Passed on 30<sup>th</sup> January, 2021)

1. Perused the application, say and record of the case.
2. Heard both sides.
3. Learned advocate for the plaintiff argued that, this court appointed Dy. Superintendent of Land Record, Balapur as a Court Commissioner and he filed his report before court. Plaintiff filed objection and court allowed the same and also directed S.L.R. to properly remeasure the land. Writ was also issued to S.L.R. for the measurement. Plaintiff approached to the office for payment of measurement fee but he found that measurement fee of S.L.R. is five times more than measurement fee of Dy.S.L.R. Plaintiff is a poor person who cannot afford measurement fee at such high rate. Plaintiff is suffering due to mistake committed by Dy.S.L.R. Therefore, he prayed for a relief of appointment of Dy.S.L.R. Balapur instead of S.L.R. to measure the land or in alternate for a direction to S.L.R. to carry out measurement without any fee.
4. Learned advocate for defendant strongly opposed the application by filing his say on overleaf of the application. He argued that, measurement conducted by Dy.S.L.R. is proper and unless and until he is examined by court the rejection of his report is against the law. He further argued

that, S.L.R. was appointed as per prayer of plaintiff and now the plaintiff cannot turn back only to avoid payment of commissioner fee. Hence, he called for the rejection of the application.

5. It is a matter of record that, this case is remanded back vide a order passed by Hon'ble District Court, Akola in R.C.A. no. 16/2014 with a direction to appoint T.I.L.R./Dy.S.L.R. as a Court Commissioner. This court appointed Dy.S.L.R. Balapur as a Court Commissioner and his report was obtained which was objected by the plaintiff vide Exh.92. This court allowed the objection and directed to appoint S.L.R. as a Court Commissioner. Moreover, recitals of application below Exh.92 shows a prayer for appointing superior authority of land records who is a S.L.R.

6. If nature of this application is considered then it becomes clear that plaintiff wants to recall the order passed below Exh.92. This court is well empowered to recall its order under section 151 of the C.P.C. However, it appears that this court has not committed any mistake which prejudices a party. Therefore, I hereby pass the following order.

#### Order

[1] The application is rejected.

Place: Balapur.  
Dt: 30/01/2021.

(N.P. Talnikar)  
Jt. Civil Judge (J.D.), Balapur.

## Certificate

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

Name of Steno : S. M. Rothe  
Court Name : Jt. C.J.J.D. & J.M.F.C.,  
Balapur.  
Date : 30/01/2021.  
Signed by Presiding  
Officer on : 30/01/2021.  
Uploaded on : 30/01/2021.

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