

MHAM160006202014



Order below Exh.-61 in R.C.S. No. 29/2014
Sheshrao Vs. Janrao.

1. Present application is moved by the plaintiff thereby prayed to exhibit commissioner report and map.
2. I have called say of defendant. The defendant submitted his say on overleaf of present application thereby prayed to reject present application.
3. Ld. Adv. P. H. Mundwaik for plaintiff submitted that the plaintiff instituted suit for declaration and injunction. In this matter, this Court appointed Court commissioner. The Court commissioner submitted his report and measurement map along-with Exh.30. However, said documents are not exhibited. The defendants did not file objection on said documents. Therefore, it is necessary to exhibit said documents. Said documents are important for adjudication of present matter. If said documents are not exhibited then plaintiff case may fail. Hence, he prayed to allow present application.
4. Per contra Ld. Adv. A. S. Bawankule for defendant contended that the plaintiff did not call Court commissioner as his witness to prove said documents. The defendant did not file objection in present matter. However, it does not mean that the defendant admitted said documents. The matter is pending for

final argument. Hence, it is not proper to exhibit said documents. With this, he prayed to reject present application.

5. Perused the application and say. Heard. I have also gone through record of present matter.
6. It appears that the plaintiff instituted suit for declaration and injunction. Perusal of record shows that this Court passed order below Exh.25 thereby appointed Court commissioner in present matter. The Court commissioner submitted his report and map on 06/09/2016 vide. Exh.30. This Court called say of other side on Exh.30. However, other side failed to file his say. It seems that the defendant did not submit his objection on Court commissioner report and map. However, commissioner is expert person. The commissioner is required to be examined to prove his report and map. Therefore, I am of the opinion that it is not proper to exhibit commissioner report and map suo-moto. In view of aforesaid discussion, I am of the opinion that present application deserves to be rejected. In result, I pass following order.

Order

- 1 The application is rejected.
- 2 No order as to costs.

Date:- 19/09/2022

Place:- Nandgaon Kh.

(S.S.Gaikwad)
Civil Judge Jr. Div.,
Nandgaon Khandeshwar,
Distt. Amravati.

