



ORDER BELOW EXH. 60

(Passed on 20 / 03 / 2026)

The present application has filed by the defendant no. 01 seeking appointment of Court Commissioner under Order XXVI Rule 9 of the Code of Civil Procedure for measurement of suit property.

2. The suit is filed by plaintiff for recovery of possession of encroached area of 0.37 H R in respect of the suit property. It is the submission of defendant no. 1 that deposition of plaintiff, measurement officer and himself is already recorded in this matter. Plaintiff also agreed for measurement of suit property by Land Record Department in his cross-examination.

3. Now, defendants want to measure the suit property i.e. *Shet Gat* No. 152 at *Mouja Chinchargavhan*, Tq. *Warud*, Dist. *Amravati* by Land Record Department to get the actual fact on record regarding agricultural fields of plaintiffs and defendants. Defendants do not want to collect evidence through this measurement. On the contrary, if the measured will carried out then it will helpful to the Hon'ble Court to decide the matter finally. Hence, application be allowed.

4. The Counsel for plaintiff filed his say on overleaf of application at Exh. 60 and submitted that the Counsel for defendants has filed this application at belated stage to prolong the



matter, although evidence of defendant no.1 is over. Hence, if Hon'ble Court allow this application then cost be saddled on him.

5. Heard ld. Counsel for defendants who argued as per the application. Heard ld. Counsel for plaintiffs who argued as per the say.

6. I have gone through the record of the case. Perusal of record shows that the present suit is filed for recovery of possession of encroached area of 0.37 H R of *Gat* No. 152. The plaintiffs have submitted that defendants encroached over 0.37 H R and they have completed their evidence. The purpose of appointing the commissioner is that the local investigation to be requisite and proper for the purpose of elucidating any matter in dispute. Firstly, it is the responsibility of plaintiffs to bring on record the actual circumstances by elucidating evidence. Court commissioner can be appointed to help the Court in arriving at a certain point whether there is encroachment or not. As per Order XXVI Rule 9 of C.P.C there is no exact stage provides for the appointment of Court commissioner however, at this stage where the evidence of plaintiffs have been completed, the Court Commissioner can be appointed.

7. From the above discussion, this Court is of the view that it is proper stage to appoint the Court commissioner. Hence, I pass the following order.



ORDER

- 1] Application (Exh.60) is allowed.
- 2] Taluka Inspector of Land record, Warud is appointed as Court Commissioner for the measurement of suit land *Shet Gat* No. 152 at *Mouja Chinchargavhan*, Tq. *Warud*, Dist. *Amravati*
- 3] The court commissioner is directed to measure the suit land as per survey manual in the light of application, say of defendants, plaint and written statement and shall submit report along with the map within one month.
- 4] The defendants are directed to bear expenses of Court Commissioner and shall supply the all the necessary documents.
- 5] Writ be issued to the Court Commissioner accordingly.

Date: 20/03/2026

(J. S. Thakare)

2nd Jt. C J J D, Warud.
