

MHAU070014502024



ORDER BELOW EXH.5 IN RCS NO.179/2024

(Bhanudas Hiwale Vs. Ramdas Hiwale)

1. This is an application filed by the plaintiffs for appointment of Court Commissioner in view of Order 26 Rule 9 of the Code of Civil Procedure, 1908 (for short C.P.C.) .
2. It is the contention of the plaintiffs that, they have filed present suit for recovery of possession of the encroached portion of the suit property. However, in the present situation, it is necessary to ascertain how much of the suit property is actually in the plaintiff's possession and on which side, and to what extent, the defendants have encroached upon it. When the plaintiffs personally approached all the defendants and requested that the entire Gut No. 42 be officially measured through the Sub-Divisional Officer, Land Records, Gangapur, all the defendants refused. But in order to bring the dispute between the plaintiffs and the defendants regarding the land to a permanent end, it is necessary to carry out a proper measurement of the suit property along with the entire Gut number through the Sub-Divisional Officer, Land Records, Gangapur. This will help to settle the dispute between the plaintiffs and the defendants permanently.
3. Plaintiffs further submitted they are ready to bear the entire fees required for the measurement of suit property. If the whole Gut number is measured, no harm will be caused to the defendants; rather, the suit will be decided expeditiously and the dispute will come to a permanent end. Passing an order for measurement of the Gut number will also not affect the nature of

the suit. Such measurement will not cause any loss to the defendants. Hence, they prayed to appoint Sub-Divisional Officer, Land Records, Gangapur, as Court Commissioner for measurement of suit property, to fix the boundaries, and to demarcate the plaintiff's land admeasuring 3 hectares 70 R land and to direct the Court Commissioner to submit a report along with a map clearly showing from which side, by whom, and to what extent encroachment has been made on the suit property. Hence, they prayed to allow the application.

4. Present suit is filed by plaintiff for the relief of recovery of possession of the encroached portion of the suit property from the defendants.

5. It is prayer of the plaintiffs to measure the land and for fixing the boundaries from TILR in Gut No.42.

6. As this suit is proceeded ex parte against the def No. 1 to 3.

7. Perused the case before me. No doubt the map is filed by plaintiffs of Gut No.42 but same time it can not be ignored that no evidence is forwarded by the plaintiff dispute can be settled by appointing Court Commissioner but this is not stage to appoint Court Commissioner. Hence, the application is deserves to be dismissed. Hence, I pass the following order.

ORDER

- 1) Application is rejected.
- 2) No order as to costs.

Date : 24/09/2025

(M. A. Shaikh)
2nd JT. C.J.J.D.,
Gangapur.

CERTIFICATE

I affirm that the contents of this P.D.F. file order is same, word to word, as per the original order.

Name of the Stenographer	:	S.M. Shaikh
Court		C.J.J.D., Court No.3, Gangapur.
Date		24/09/2025
Order signed by the presiding officer on		26/09/2025
Order uploaded on		26/09/2025