

MHAU070021182025



R.C.S.No.377/2025

**Sukhmanbai Hiralal Jarwal Vs. Swarupchand Fulsingh
Ghunawat**

ORDER BELOW EXH.35

Present application is filed by the plaintiff to appoint commissioner to fix the boundaries of gut nos.31 and 32 under Order XXVI Rule 9 of the Code of Civil Procedure.

2. Heard learned advocate for plaintiff. It has submitted that, plaintiffs are the owner of gut no.32 situated at village Takaliwadi, Tq. Gangapur, District Aurangabad (hereinafter referred as “suit property”).

3. It has further contended that, at the southern side of the suit property, there is gut no.31 of the defendant. The government has acquired land for construction of Samrudhi Highway. The plaintiff is having suspicions that defendant has committed encroachment over suit property.

4. To find out that, whether defendant has committed encroachment, there is need of measurement of the suit property at the hands of Tahsil Inspector of Land Record. Therefore, prayed to appoint measurer and get fixed boundaries of gut nos.31 and 32.

5. Defendant filed say and raised strong objection to allow this application. It has submitted that, plaintiff has filed present suit for perpetual injunction. At this juncture, present

application is not tenable, has prayed to reject the application.

6. The present suit is filed by the plaintiff for perpetual injunction to restrain defendants from receiving the compensation granted for acquisition of land for Samrudhi Highway. According to plaintiff, the measurement of the both gut number is necessary. Admittedly, the suit is for perpetual injunction. Plaintiff has to prove his case that, his land of the particular area has been acquired by the Highway Authority and Maharashtra Public Work Department (P.W.D.). The government (P.W.D. and Highway Authority), definitely having all data information regarding area of the land which has been acquired for the construction of the Samrudhi Highway. The plaintiff is also having all concerned documents regarding area of the land owned and possessed by him.

7. The case is filed for perpetual injunction. The appointment of measurer in present suit is not found suitable, because no, commissioner can be appointed to collect evidence. There is no suit for recovery of possession of land. Hence, no substance in application. Hence, order.

ORDER

The application is rejected.

(Nilesh R. Indalkar)
Civil Judge Sr. Division
Gangapur

Date:- 13.08.2026