



R.C.S./290/2022

Punjaba Rama Shinde Vs. Sanjay Bala Shinde

ORDER BELOW EXH. 10

This is an application for appointing TILR, Sillod as Court Commissioner.

02. It is submitted that, plaintiff is in ownership and possession of land Gut No. 205 admeasuring 18 R situated at Gavhali, Tq. Sillod which is bounded by, towards the east Gavthan and Gut No. 43, towards the west road and land of Rameshwar Gopala, towards the south Grampanchayat office and Gut No. 203 & 204 and towards the north land Gut No. 368 (Hereinafter referred to as 'suit property', for the sake of brevity).

03. Defendants are not having any concern with suit property. But, they intentionally started to obstruct in the lawful and peaceful possession, use and enjoyment of the suit property. As such, plaintiff filed suit for permanent injunction along with an application for temporary injunction which is allowed by this Court on dated 03/08/2023.

04. By the order of temporary injunction, defendants are restricted from causing any sort of obstruction to the suit property. Still defendants intentionally disobey the order in order to dispossess plaintiff from the suit property.

05. The suit property is adjacent to the village Gavhali. On dated 16/07/2025, defendant entered suit property in order to grab the same and towards eastern side they made an encroachment over the suit land approximately to the extent of 3 to 4 guntha, when plaintiff was present in the suit property and he requested defendants not to do so, but in vain. Even defendants orally directed plaintiffs that there is Gavthan land. Hence, plaintiff intends to measure his suit property.

06. Defendants illegally made encroachment over the suit land and threatened plaintiffs. As such, it requires to get suit land measured through TILR, Sillod for the interest of justice. The plaintiff is ready to incur expenses for the work of Court Commissioner. Hence, it is prayed for granting the very application.

07. The say of defendants was called upon. Accordingly, Ld. Adv. G. V. Dhone endorsed his say on the very application and opposed the application contending that, the suit filed by plaintiff is for seeking relief of permanent injunction. Plaintiff is trying to collect evidence at the instance of the Court. In the suit for perpetual injunction, Court Commissioner can not be appointed and the same is held by Hon'ble Supreme Court and Hon'ble High Courts in various cases. Hence, it is prayed for rejecting the very application.

08. Perused the application, say thereon and record in hand. It appears that, plaintiff Punjaba Rama Shinde filed present suit against defeated No. 1 to 12 for seeking relief of perpetual injunction. Having gone through the plaint, it doesn't appear that, plaintiff averred as to commission of encroachment over the suit property by the defendants. In para No. 7 of the plaint, it is averred that, in the present year plaintiff has sown maize crop

in the suit land and on 15/07/2022 all defendants illegally entered in the suit land to spray *tannashak* over the maize crop and tried to destroy the same. As such, plaintiff requested them not to do so, but they did not pay heed towards the same. Even they threatened plaintiff that they will dispossess him from the suit land. Hence, he approached Vadod Bazar Police Station and he was directed by police to approach Civil Court being dispute in civil nature. Hence, he constrained to file the suit. It means that, nowhere in the plaint it is averred that, on 15/07/2022 defendants committed encroachment over suit property. Here, plaintiff narrated the fact in the present application that, on 16/07/2025 defendants entered into suit land in his presence and committed encroachment over the suit land to the extent of 3 to 4 guntha. The very version did not appear natural one. Even no single document to substantiate the very fact of encroachment is filed by the plaintiff on record.

09. It is settled position of the law that, in the suit for perpetual injunction, it need not to appoint the Court Commissioner for the measurement of the suit property. Reason is that, in the suit for perpetual injunction no issue of any encroachment is to be decided which requires measurement of immovable property by the competent authority. Hence, it is evident that, plaintiff is trying to collect evidence through the court machinery. The way, application is devoid of any merit and same deserves to be rejected. Accordingly, I pass following order :-

ORDER

The application vide Exh. 10 is hereby rejected.

Date – 05/03/2026

(K. T. Adhayke)
Jt. Civil Judge Jr. Dn.,
Sillod.