

MHAU080044282024



R.C.S./387/2024

**Gulsher Kha Ahemad Kha Vs. Yakub Kha Gulam Rasul Kha**

**ORDER BELOW EXH. 14**

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

**02.** It is submitted that, the present suit is filed for removal of encroachment and separate possession, wherein defendants are duly served with suit summons but they have not caused their appearance. As such, the suit is being proceeded ex-parte against all defendants.

**03.** The plaintiff is owner of suit property. Defendants committed encroachment over the suit land to the extent of 6 Acre approximately. Plaintiff approached defendants but they did not pay any hid towards it and denied to handover the possession of encroached portion.

**04.** The suit is being proceeded ex-parte as such it requires to admeasure the suit land to adjudicate the matter on merit. After measurement the exact situation of the alleged encroachment would come on record. Hence, suit property may kindly be measured through the TILR Office, Sillod. Hence, it is prayed for granting the very application.

**05.** Perused the application and record in hand. It appears that,

plaintiff No. 1 to 3 filed present suit against defendant No. 1 to 5 for removal of encroachment to the extent of 6 R over suit property bearing Gut No. 672 admeasuring 6 Hector 87.50 R including 17 R non-cultivating area, total 7 Hector 4.50 R situated at village Shivna.

**06.** It is alleged that, defendants committed encroachment over 6 Acre of the suit property. Here, it is evident that, the suit is filed for removal of encroachment and possession of encroached portion. Even if defendants are served with suit summons duly, but they did not cause their appearance. As such, their written statement could not come on record. Hence, in order to decide the suit on merit, it requires to measure the suit property in order to find out whether any encroachment is committed over the suit property by anyone as alleged by the plaintiffs. Though, it is settled position of the law that, Court Commissioner is not to be appointed for the collection of evidence. But, here, it is not the case that, peculiar evidence as to alleged encroachment can be brought on record through oral testimony of plaintiffs and their witnesses. It needs to get suit land measured by the competent authority of the department of land record. Hence, I found substance in the present application. Accordingly, I pass following order :-

### **ORDER**

- i. The application vide Exh. 14 is hereby allowed.
- ii. Deputy Superintendent of Land Record, Sillod is hereby appointed as Court Commissioner in order to measure land Gut No. 772 admeasuring 6 Hector 87.50 R plus 17 R (non-cultivating land) to the extent of 7 Hector 4.50 R situated at Shivna, Tq. Sillod, Dist. Aurangabad owned and possessed by plaintiffs.
- iii. Plaintiffs are hereby directed to provide all requisite documents to the office of Deputy Superintendent of Land Record, Sillod to conduct measurement as directed.

- iv. Plaintiffs are hereby directed to deposit entire fees of the work of Court Commissioner till 27/04/2026.
- v. Deputy Superintendent of Land Record is hereby directed to measure the suit property and show the boundaries of the suit property in the measurement map.
- vi. If any encroachment is committed by defendants as alleged, the same shall be shown specifically in the measurement map.
- vii. Accordingly, writ be issued.

Date – 25/03/2026

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