

MHAU090019622024



R.C.S. No.212/2024

Bhausahab & Ors.

Vs.

Bhanudas & Ors.

ORDER BELOW EXH.10

By this application the plaintiffs have prayed for removal of encroachment, to gain mesne profit and perpetual injunction, Paithan as a Court Commissioner under Order-XXVI Rule-9 of the Code of Civil Procedure for carrying out the measurement of the suit property.

2. Plaintiff has contended that he is having 04H.41R land in Gat no. 17, situated at Village Imampur, Tq. Paithan, Dist. Aurangabad. It is further contended that defendants are having land adjacent to the land of the plaintiff. Due to the over lapping of the said agricultural lands of plaintiff and defendants, it has become difficult for the plaintiffs to use their land. If the court commissioner as prayed is appointed then boundary marks of the parties will be known. This will help the Court to ascertain the factual position. Thus, he has prayed to allow the application. Defendants have filed their say below Exh.17 and contended that if at all court passes an order for measurement then entire land of plaintiffs and defendants should be measured.

3. Heard the learned advocates for both the parties. Perused the record. The suit is filed for removal of encroachment and possession. Plaintiff has contended that, defendants have made encroachment over the suit property. The defendants have partially gave no consent for carrying out the measurement of the suit property. Therefore, *prima facie* there appears dispute over the boundaries between the parties. The purpose of appointment of court commissioner is to bring factual position of the suit property and encroached portion if any on record. To elucidate the real controversy between the parties the aid of Court commissioner is

warranted for measurement entire land in all the gat numbers mentioned in the application as well as say of the defendants. Hence, I pass following order :

ORDER

1. Application is allowed.
2. T.I.L.R., Paithan is hereby appointed as Court Commissioner for measurement of entire land in Gut no.16,17,18 and 19 situated at village Imampur, Tq. Paithan, Dist. Aurangabad on depositing the necessary charges by both the parties equally.
3. TILR, Paithan shall carry out the measurement of said land and fix the boundaries and find out encroachment if any and submit his report along with map within one month of completion of measurement.
4. Both the parties are directed to appear before T.I.L.R., Paithan and comply commission fees and necessary documents.
5. Issue Commission letter to TILR, Paithan.

Date : 29/04/2025.

(**S. R. Kanakdande**)
2nd Jt. Civil Judge, Jr. Divn.,
Paithan, Dist-Aurangabad.

CERTIFICATE

I affirm that the contents of this [P.D.F.](#) file order are same, word to word, as per the original order.

Name of the Stenographer : Komal V. Bayas
Stenographer Grade-III
Court : 2nd Jt.CJJD, Paithan.
Date : 29.04.2025
Order signed by the
presiding officer on : 29.04.2025
Order uploaded on : 29.04.2025

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