

MHAU100006192016



R.C.S. No.59/2016

Purshottam s/o. Murlidhar
Vaishnav & Ors.

Vs.

Rukhmanbai w/o.
Ramchandra Vaishnav & Ors.

ORDER BELOW EXH.18.
(Passed on 08/01/2024)

(1) This application is filed under Order 26 Rule 9 R/w. Section 151 of the Code of Civil Procedure for appointment of Court commissioner for joint measurement of Gut No.223. 210 and 222 situated at Takali Rajerai, Tq. Khultabad, Distt. Aurangabad. (*Herein after referred to as "property A, B and C respectively"*).

(2) It is contended that the plaintiff has filed the instant suit against defendants for removal encroachment and possession. It is further contended by plaintiff that, the plaintiff is having land in Gut No.223 admeasuring 3H 40R land. The defendants have land from eastern side and western side i.e. Gut No.210 and 222. Defendants have each encroached up to 1 Acre land in the plaintiff's property and defendants are denying the fact of encroachment therefore, it has become necessary to have local inspection, measurement of the site in question and to have agreed map on record in order to decide the matter finally. It is further contended by the plaintiff that, this is suit for removal encroachment and possession of

(2)

encroached area and if Court Commissioner is appointed, then it will not cause any harm or prejudice to the defendants. Hence the plaintiff prayed for appointment of Taluka Inspector of Land Records, Khultabad as a Court Commissioner for joint measurement of property "A to C". Defendants did not file any say. Hence, proceeded without their say. Heard learned advocate for plaintiff Mr. I.A. Patel at length. Perused the record.

(3) It appears that the plaintiff has filed instant suit for removal encroachment along with possession. According to the plaintiff defendants have each made encroachment up to 1 Acre land in plaintiff's property. In the matter of encroachment it is desirable to carry out measurement to elucidate the factual position. But it is the plaintiff who should have to prove his case and bear the expenses. Therefore, I don't find any hesitation to allow the application. Hence I proceed to pass following order.

-:: O R D E R ::-

- (1) The application is allowed.
- (2) The Taluka Inspector Land Revenue, Khultabad is appointed as court commissioner to carry out joint measurement of property "A to C", situated at Takali Rajerai, Tq. Khultabad Dist. Aurangabad and to show the actual encroachment, if any, and submit his report along with the measurement map within two months from the receipt of this order.

(3)

- (3) The Court Commissioner is directed to carry out measurement of property "A to C" situated at Takali Rajerai after issuing notices to the parties and to the adjacent land owners.
- (4) The plaintiff is directed to deposit the require measurement fees in the office of Taluka Inspector Land Revenue, Khultabad.

Sd/-
(Dr. S.V. Rajkuntwar)
Civil Judge (Jr.Dn.),
Khultabad.

Date:- 08/01/2024

CERTIFICATE

I affirm that, the contents of this PDF file Judgment / order are same word for word, as per original Judgment / order.

Name of the ***Akash S. Chavan***
Stenographer :-
Name of the Court :- C.J.J.D. and J.M.F.C. Court,
Khultabad.
Dated :- 08/01/2024
Order signed by the
Presiding officer on :- 08/01/2024
Order uploaded on :- 09/01/2024