

MHAU120004312020

R.C.S. No.- 42/2020  
Sumanbai Vs. Pirkha**ORDER BELOW EXH.-18**

01. This is an application filed by the plaintiff for appointment of Court Commissioner in view of Order 26 Rule 9 of the Code of Civil Procedure, 1908 (for short CPC). Other side filed their say to the application.

02. It is the contention of plaintiff that, present suit is instituted seeking relief of possession in respect of Gut No.-43 situated at village Palaskheda, Tq. Soygaon, Dist. Aurangabad ( hereinafter referred as suit property for the sake of brevity).

03. Plaintiff are the owner of suit property and now in possession of only to the extent of 1 H 42 R. The land of defendant Nos. 1 & 2 are situated at towards East side of suit property. The land of defendant No.3 is situated towards west side of suit property. By taking undue advantage of this position they have started encroachment over suit property. Despite several request from plaintiff, defendants not paid any heed to the request of plaintiff. Defendant Nos. 1 & 2 encroached over suit land to the extent of 10R and defendant No.3 encroached over suit land to the extent of 15R. Therefore, present application is filed.

04. Defendants opposed the application by way of filing their say. It is the contention of defendants that, only to collect the evidence the present application is filed. Hence, defendants prayed to reject the application.

05. So far as measurement of encroachment is concerned, it is a technical job. Therefore, it must be done by concerned official. The present suit is

instituted seeking relief of possession. Plaintiff in his plaint specifically mentioned that defendants are adjacent land holders of suit property. They have committed over encroachment over suit property and grabbed near about 25 R land out of suit property. Therefore, exact encroachment portion, if any, needs to be came on record. It cannot be said that, plaintiff tried to collect the evidence through Court Commissioner. Therefore, in present case appointed of Court Commissioner is necessary. Therefore, I have proceed to pass following order -

**ORDER**

- 1} TILR Soygaon is hereby appointed as Court Commissioner to carry out measurement of suit property Gut No.- 43, admeasuring 4H 16 R land to the extent of 1 H 67 R situated at Palaskheda, Tq. Soygaon, Dist. Aurangabad.
- 2} Plaintiff is directed to deposit expenses for carrying out measurement, within a period of 15 days from the date of this order.
- 3} Plaintiff is also directed to furnish necessary documents to TILR Soygaon for carrying out measurement.
- 4} TILR Soygaon is hereby directed to carry out measurement of above mentioned Gut number of land of plaintiff and submit report within one month from the date of measurement.
- 5} TILR Soygaon is also directed to furnish two extra copies of measurement map with original.
- 6} Plaintiff is directed to furnish his address.
- 7} After depositing the necessary expenses for measurement, plaintiff shall informed to the Court by filing pursis that he is deposited the amount of measurement.
- 8} Issue Commission Writ accordingly.

**Date :- 04.04.2024.**

[R.N.Pathak]  
Civil Judge (Jr.Dn.),  
Soygaon.

**CERTIFICATE**

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

Name of Stenographer	:-	K. P. Dusane.
Court	:-	C.J.J.D. & J.M.F.C., Soygaon.
Date	:-	04.04.2024
Order signed by presiding Officer on	:-	04.04.2024
Order uploaded on	:-	04.04.2024