

MHAU120005192025 	<u>Order Below Exh.8 in R.C.S. No. 59/2025</u>
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By this application the plaintiff has sought an appointment of court commissioner under Order 26 Rule 9 of Code of Civil Procedure. The plaintiff has submitted that he has filed the present suit for removal of encroachment and possession. He further submitted that, plaintiff is owner of land gat no.36 admeasuring 0H.41 R situated at village Malegaon, Tq. Soygaon, Dist. Aurangabad. The defendants agricultural land is adjacent to the land of plaintiff towards east side. By taking disadvantages of the adjacent land owner, defendants have encroached over the property of plaintiff. They further submitted that, it is necessary to measure the area of gat no.36. Therefore, it is necessary to appoint TILR Soygaon as Court commissioner. The plaintiff prays to allow this application.

02. Defendants have filed their say and submitted that, the area 0H. 36R out of gat no.36 is in name of the defendants and defendants has sold out 0H. 41 R to the plaintiff's father. The defendants are in the possession of the area which is mentioned in their name as per the record. If, plaintiff has any dispute about the area, he may file an application before the appropriate authority for measurement.

03. Ongoing through the application, say and argument advanced by both the sides, it seems that the plaintiff has filed present suit for removal of encroachment and possession. The plaintiffs sought the measurement of the suit property through TILR Soygaon. From the argument of both side, it appears that, both parties are disputing about the area of the land and

plaintiff also contending above the encroachment of defendants over the land of plaintiff. In order to decide who is in actual possession and who has encroached, the Court commissioner is required. However, the purpose of appointment of court commissioner is not to assist the party to collect the evidence but in order to elucidate any matter in dispute. The local investigation should be done in order to elucidate any matter in dispute i.e. as to the identification, location or measurement of the land, local investigation. It is well settled principle of the law that the TILR Soygaon can be appointed as court commissioner for boundary dispute and allegation of encroachment. It is therefore, present application needs to be allowed. In the result, I proceed to pass the following order.

ORDER

- 1} TILR Soygaon is hereby appointed as Court Commissioner to carry out measurement of suit land gat no.36 admeasuring 0H. 41 R situated at village Malegaon, 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 detail report i.e. encroachment area, by whom encroachment committed, encroachment boundaries, over suit land 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 Letter to TILR Soygaon accordingly.

Place : Soygaon
Date : 24.07.2025.

(M. B. Patil)
Civil Judge Junior Division,
Soygaon

CERTIFICATE

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

Name of Jr. Clerk : Y. S. Mali

Court : Civil Judge Junior Division, Soygaon

Date : 24.07.2025

Judgment /order signed
by the Presiding Officer

on : 24.07.2025

Judgment /order uploaded

on : 25.07.2025