

MHAU120006102024

R.C.S. No.- 188/2024
Akshay + 1 Vs. Rahul+1**ORDER BELOW EXH.-9**

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 no.1 and 2 that, they are owner of 7 H 79 R and 3 H 28 R land, out of Gut No.-38 situated at village Wakadi, Tq. Soygaon, Dist. Aurangabad. Defendant are adjacent land holder of the suit land. Land of the defendant no.1 situated towards South side and defendant no.2 situated towards North side of the suit land. Taking disadvantage of the said position, she started encroachment over suit land day by day. Defendant no.1 and 2 encroached over suit land to the extent of 15 R and 20 R. Even after request from plaintiffs to them, defendant denied to handed over the said encroachment area. Therefore, for proper adjudication of the suit appointment of Court Commissioner is necessary.

03. On the other hand, it is the contention of defendant that, only to harassed the defendant present suit is instituted. She has not committed any encroachment over suit land. She is in possession only to the extent of his ownership. On the above mentioned ground defendant prayed to reject the application.

04. 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. Plaintiffs in his plaint specifically deposed that, suit land is their ancestral property. Defendant is adjacent land

holders of suit land. Defendant no.1 and 2 started over encroachment over suit land and grabbed near about 15 R and 20 R land out of suit land. Therefore, exact encroachment portion, if any, needs to be came on record. 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 land Gut No.-58, admeasuring 7 H 79 R and 3 H 28 R land, situated at Wakadi, 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.

Date :- 22.10.2024.

[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 :- Y. S. Mali

Court :- C.J.J.D. & J.M.F.C., Soygaon.

Date :- 22.10.2024.

Order signed by presiding
Officer on :- 22.10.2024.

Order uploaded on :- 23.10.2024.