

MHAU130000532025



R.C.S.No.38/2025

**Sultana Begum Sk Ismail Vs. Municipal Corporation, Aurangabad**

**ORDER BELOW EXH.20**

1. Present application is made by the plaintiff for appointment of court commissioner under order 26 Rule 9 of the Code of Civil Procedure, 1908. Read the application and reply of defendant corporation at Exh.22. Heard learned advocates for the rival parties.
2. Learned advocate for the plaintiff submitted that, the defendant corporation has already acquired the property of plaintiff and has not paid any compensation to her. The construction on the suit property is not causing any hurdle to the traffic nor to the widening of road. However, defendant corporation has threatened to demolition suit property. In such circumstances, local investigation of suit property by a court commissioner is necessary. According to him, the report of commissioner will facilitate this court to arrive at just decision of the case.
3. Learned advocate for defendant corporation argued that, the local investigation of suit property is not necessary in this case. The plaintiff wants to collect evidence by appointment of court commissioner. Therefore, it is necessary to reject the application.
4. Order 26 Rule 9 of C. P. C. makes provisions for appointment of court commissioner for the purpose of elucidating the matter before court. Perusal of present application makes it clear that, the matter plaintiff is seeking to elucidate by appointment of court

commissioner is absence of any hurdle in widening of road and traffic thereon due to her construction over suit property. In such circumstances, appointment of court commissioner is an attempt to collect evidence by the plaintiff. Moreover, the trial has not commenced and the plaintiff has not adduced her oral evidence till today. It is settled position of law that, a court commissioner normally should not be appointed until the recording of oral evidence is concluded. Thus, it is not a stage to assess as to whether a court commissioner is required to be appointed or not. Lastly, it is not a case of boundary dispute or encroachment. The plaintiff has come with a specific case that the defendant corporation has issued notice to her in respect of suit property without following due procedure of law and prayed for an order of perpetual injunction. Therefore, the application needs to be rejected. Hence, I pass the following order.

**ORDER**

Application stands rejected.

Date :- 29.01.2026

( **Shri. N. H. Tikhe** )  
Civil Judge Senior Division  
(Corporation Court),  
Aurangabad.

## CERTIFICATE

I affirm that the contents of this P. D.F. file Judgment are same, word to word, as per the original Judgment.

Name of the Stenographer	: V.K. Chavan, (Stenographer-2)
Court	: C.J.S.D. (Corporation Court), Aurangabad
Date	: 29.01.2026
Judgment signed by the presiding officer on	: 29.01.2026
Judgment uploaded on	: 29.01.2026