

**ORDER BELOW EXH.58**

(Passed on 12th Day of October, 2023)

This is an application filed by the plaintiff under Order -XXVI Rule-9 of Civil Procedure Code for appointment of Deputy Superintendent of Land Record as Court Commissioner to measure jointly land of all co-sharers in survey No. 222 situated at village Mangwadgaon.

**The brief contentions of application are as follows:-**

2] The suit has been instituted for declaration and permanent injunction. According to the plaintiff, he is one of the owner and possessor of lands survey No. 222 adms. area of 1H. 80R as described in rough sketch map of the suit and defendants are also owned and possessed the land in survey no.222. It is alleged by the plaintiff that, defendants have tried to encroach over land. Therefore, it is necessary to measure the suit property to decide real controversy between the parties. Hence, the plaintiff has prayed for joint measurement of land of all co-sharer in survey No. 222 situated at village Mangwadgaon and also for fixation of boundaries.

3] Defendants filed their say on overleaf of the application and submitted to no objection for joint measurement of area of all co-sharers in survey no.222.

4] Heard Ld. advocate for the plaintiff and defendants. Gone through the documents on record.

5] The suit has been instituted for declaration of ownership and perpetual injunction. It is averred by the plaintiff that, defendants have encroached over suit property. It appears that there are boundary disputes between the parties. It is necessary to come on record who have made encroachment over the plaintiff's land. Hon'ble Bombay High Court in case of **Habibkhan S/o Inauttalakhan & others V/s. Waman S/o. Govind Rathod & others reported in 2012(1) ALL M.R. 803** held that, disputes regarding boundaries can be best adjudicated by taking assistance of expert, on measurement who can express his opinion.

6] The plaintiff has prayed to measure the area of land bearing survey No. 222. However, to adjudicate the real dispute between the parties, the area of all co-sharers in survey no.222 is also needs to be measured jointly with the area of plaintiff's land to bring out fact of measurement. Therefore, lands of all co-sharers situated in survey No. 222 needs to be measured. The plaintiff is ready to pay the all measurement charges. At this juncture, it is necessary to appoint Deputy Superintendent of Land Record as Court Commissioner for measurement of above mentioned properties. In this situation, the application is allowed in following terms.

**ORDER**

- 1] The Deputy Superintendent Land Record, Kaij is appointed as a Court Commissioner.
- 2] The Court Commissioner to measure the area of all co-sharers jointly in survey No. 222 situated at Mangwadgaon, Tq. Kaij, Dist. Beed and to point out encroachment, if any in above referred survey numbers.
- 3] The plaintiff to deposit the all measurement charges directly to the measurement office within one month from the date of this order.
- 4] The plaintiff to furnish the copies of plaint, 7/12 abstracts of survey No.222 as well as the names and addresses of all co-sharers and adjacent land holders.
- 5] The Court Commissioner to file his report with map showing encroachment portion if any within one month from the date of measurement.
- 6] Issue writ accordingly after compliance by the plaintiff.

Place : Kaij.  
Date : 12.10.2023.

( P.V. Patil )  
2<sup>nd</sup> jt. Civil Judge (J.D.) Kaij.\

**CERTIFICATE**

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

Dictated on : 12.10.2023

Transcribed on : 12.10.2023

Checked & signed on : 12.10.2023

Sd/-  
(S.Y. Gore)  
Stenographer Grade-3,  
Ct. of 2<sup>nd</sup> Jt. CJJD and JMFC, Kaij.