

ORDER BELOW Exh. 09

The plaintiff made this application for appointment of the Court Commissioner to measure the suit property and to point out encroachment on the same by the defendant no.2. Heard advocate of the plaintiff.

2. It is the contention of the plaintiff that, he has filed present suit for declaration and perpetual injunction. Defendant no.2 has made encroachment over the suit property. Therefore, appointment of the Court-Commissioner is necessary to point of exact encroachment on the suit property by the defendant no. 2. Hence, this application.

3. No say filed by the defendants.

4. Perused record. The suit is for declaration of ownership and perpetual injunction. The plaintiff has pleaded in para no. 3 of the plaint that, defendant no. 2 has encroached on the suit property from the southern side.

5. In **Girish Vasant Rao Bhoyar And Anr. V/s. Nimbaji Warluji Bambal 2009(4) ALL MR 761** in which the Hon'ble High Court held that,

“the cases of boundary disputes and the dispute about the

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identity of the land are instances where a Court should order a local investigation under Order 26 Rule 9 of the Civil Procedure Code”

6. In this case also, there is issue of encroachment between the parties. Hence, I think the suit property needs to be measured by the expert and his report is necessary to point out boundaries by the properties. The land record is material document and TILR is an expert in measuring the properties. Hence, appointing him will serve the purpose. Hence, following order-

ORDER

1. The application is allowed.
2. T.I.L.R., Parali V. is hereby appointed as the Court-Commissioner.
3. Court Commissioner is directed to measure Gat No. 105 ad-measuring 0H 68R situated at Hivra, Parli Vaijnath, Tq. Parli Vaijnath to point out the exact boundaries thereof and encroachment done by the defendants over it, if any.
4. Court-Commissioner is directed to submit his report along with map on or before next date.
5. The plaintiff to deposit requisite fee in T.I.L.R. Office directly.
6. Plaintiff to supply requisite documents.
7. Issue commission writ accordingly.
8. Costs in cause.

Date:- 08.09.2022.

(N. R. Yalmane)
Civil Judge, J.D., Parli V.
Dist. Beed