

MHBU100012412022	R.C.S. No. 78/2022
	Ramdas + 2
	Vs.
	Subhashsingh + 9

ORDER BELOW EXH. 27

01. This is an application preferred by the plaintiffs for appointment of Court Commissioner for carrying out measurement of the suit property under Order 26 Rule 9 of Code of Civil Procedure. Heard Learned Counsel for the plaintiffs at length. The Learned Counsel for the defendants did not file say to present application and also remained absent at the time of hearing.

02. The Learned Counsel for the plaintiffs submitted that they have instituted suit for encroached portion of the suit property i.e. field Gat no.174 admeasuring 5 H. 36 R. It is further submitted that defendants no. 2 to 10 possess and owns land in gat no. 127 on the western side of the suit property also defendant no.2 and 3 possess land in the same gat i.e. Gat no.174 on the southern side of the suit property. It is also averred that the defendants have encroached upon the suit property to the extent of 12 R. land.

03. On perusal of record it is noticed that the said suit is filed for removal of an encroachment and possession. The averments shows that the defendants possess plot bearing no. 2 to 10 possess land on the western side of the suit property. Further, defendant no.2 and 3 possess land in the same gat i.e. Gat no.174 on the southern side of the suit property. Thus, from the record it is noticed that there is dispute between the parties with regard to boundary marks of the suit property. It is well settled law that when the dispute is regarding demarcation of the disputed land it is appoint Court Commissioner for appropriate to measuring the lands.

04. It is to be remembered that merely because Court Commissioner is appointed it will not prejudice the interest of either of the parties. If any of the parties is aggrieved by the report of the Court Commissioner, an opportunity would be available to that party to cross examine the Court Commissioner and to point out as to how his conclusions were not correct. Further, the party who is not aggrieved would also prove how his conclusions are correct.

05. For the aforesaid reasons, application deserves to be allowed and I am inclined to pass the following order.

ORDER

1]	Application below Exh. 27 is allowed.
2]	Dy. Superintendent of Land Record Malkapur, is appointed as the Court Commissioner to visit and measure land plots bearing no. 174 and 127 mentioned in the plaint as per land survey manual.
3]	The Court Commissioner shall secure public records relating to land mentioned above, ascertain undisputed or settled boundaries, if there is no public record, the Court Commissioner shall prepare an agreed map, and if the parties may not agree on it, a Commissioner shall prepare the same and measure aforesaid land and if necessary surrounding other lands, which are not mentioned above.
4]	The Court Commissioner shall submit the report along with map including area of each and every portion so measured, within one month of the receipt of the writ.
5]	The plaintiff is directed to pay the expenses of the Court Commissioner and shall also supply all the necessary documents and facilities to the Court Commissioner.
6]	Writ be issued to the Court Commissioner accordingly.

Date :- 27/03/2026

(P. S. Thakare)
Jt. Civil Judge (Jr. Dn.),
Malkapur.

CERTIFICATE

I affirm that the contents of this P.D.F. file order is same, word to word, as per the original order.	
Court	J.M.F.C. Court No.1, Malkapur
Date	27/03/2026
Order signed by the presiding officer on	27/03/2026
Order uploaded on	30/03/2026