

MHBU130007922019

**Vimalbai vs. Bhaskar & others****CNR NO.MHBU-13000792-2019****Order Below Exh. 6 in R.C.S.No. 57/2019.****(Dated 21st December, 2019)**

Present application has been filed by plaintiff under Order XXVI Rule 9 of the C.P.C.,1908 thereby praying for appointing T.I. L. R., Chikhli as Court Commissioner for conducting measurement of plaintiff's suit property i.e. agricultural land admeasuring 30R in Gut No.205 situated at mouza Satgaon Bhusari, Tq. Chikhli, Distt. Buldana and also directing said Court Commissioner for fixation of boundary marks of suit property and to submit measurement report.

2) Perused application and documents on record. Also heard learned Advocate for the plaintiff. Nobody appeared in the matter on behalf of defendants. Hence, suit and present application proceeded exparte against the defendants.

3) Learned Advocate for plaintiff has submitted that plaintiff has filed present suit for perpetual injunction and fixation of boundary marks of suit property against the defendants. It is further submitted that defendant Nos.1, 2 and 3 are having their agricultural lands in said Gut No.205. Defendant Nos. 4 to 13 are also having their agricultural lands in said Gut number. Defendants are not concerned with the suit property. There is an old common boundary in between the fields of plaintiff and defendants. Defendants always make quarrel with the plaintiff over the said common old

boundary. Even, defendants have made attempt to destroy said old common boundary. When plaintiff tried to give good understanding to the defendants at that time defendants asked plaintiff to get her suit property measured.

4) It is further submitted that as the defendants have destroyed the said old common boundary so it has become difficult for the plaintiff to identify her suit property. Therefore, it is necessary to measure suit property and also to fix boundary marks by appointing T.I.L.R. as court commissioner. Hence, prayed for grant of this application.

5) I have perused record of the matter and also taken into consideration the submissions of Advocate of plaintiff. From the record, it reveals that there is dispute between parties regarding identity of boundaries of lands in Gut No.205. Present application is filed to appoint T.I.L.R. Chikhli as Court Commissioner for taking measurement of suit property situated in Gut No.205 of mouza Satgaon Bhusari. However, I think that it is necessary to take joint measurement of lands of both plaintiff and defendants so that dispute regarding identity of boundaries will be solved. If application is allowed then defendants will not be prejudiced. On the contrary, it will help this court to decide the real controversy between the parties effectively. It is further pertinent to note here that where there is dispute regarding identity of boundaries, it is always desirable to get the fields measured by an expert and find out exact area of lands of parties who are in dispute because oral evidence can not conclusively prove such an issue. Thus, I think it just and proper to allow this application. Hence, I proceed to pass following order.

O R D E R

1. T.I.L.R., Chikhli is hereby appointed as a Court Commissioner to conduct joint measurement of the lands of plaintiff and defendants out of Gut No.205 situated at village Satgaon Bhusari, Tq. Chikhli ,Dist Buldana and also to fix or demarcate the boundaries of the lands by noting down the actual measurement in the joint measurement itself by showing the precise & concise area of lands of parties and then shall submit the map and report to this court within two months.
- 2) Plaintiff is hereby directed to deposit the necessary fees of measurement in the office of T.I.L.R., Chikhli directly, as per rules and to provide the revenue record to the court commissioner, if required.
- 3) Parties to the suit appear before Court Commissioner as and when directed and co-operate to the Court Commissioner.
- 4) Copy of writ be forwarded to Court Commissioner on P.F.

Date: 21/12/2019

(S.W. Thombre)
Civil Judge, Junior Division,
Chikhli.

Certificate

I B.B.Theng, Stenographer to J.M.F.C. Chikhli affirm that, the content of this PDF judgment file is the same as per the original judgment.