

**Order Below Exh. 13 in R.C.S. No. 121/2022**

This is an application filed by plaintiff under Order 26 Rule 9 of the Code of Civil Procedure. He prayed for appointment of commissioner for measurement of suit property through T.I.L.R.

2. Plaintiff has filed this suit for fixation of boundary marks and permanent injunction. It is contention of the plaintiff that he is owner of the suit property. Defendants are adjacent owner. As there are no boundary marks, measurement of the plaintiff's property is not found correct. Concern authority is not ready to carry out the measurement without order of Court. Therefore, it is necessary to measure the land of the plaintiff and fix the boundaries. By this application plaintiff is seeking appointment of T.I.L.R. for measurement and fixation of boundaries of the plaintiff's property.

3. It is well settled position of the law and guidelines of the Hon'ble High Court as well as the Hon'ble Supreme Court that in a suit for encroachment, measurement of the property by competent authority is just and proper for final adjudication between the parties. In the present matter plaintiffs have not alleged any encroachment or trespass in suit property. Plaintiffs plainly prayed for measurement and fixation of boundaries. In such suit, measurement during pendency of suit will amounts to granting final relief. Hence, in suit for fixation of boundaries appointment of T.I.L.R. for measurement is not necessary to decide the dispute or to grant a relief by the plaintiff in suit. Hence, proceed to pass following order.

**ORDER**

1) Application is rejected.

Date: 05.04.2024

sd/- (H.D.Deshinge)  
Civil Judge, Junior Division,  
Chikhli.