

ORDER BELOW EXH. 30 IN R.C.S. NO. 84/2021.

(Passed on 17.01.2023)

1. This is an application under Order XXVI Rule 9 of the Code of Civil Procedure, 1908. (here-in-after referred the code) for appointment of court commission.

2. **In short the application of plaintiff is as under -**

The plaintiff submitted that, he is the owner and possessor of the suit property situated at village Sultanpur, Tq. Lonar in gat no. 749 ad-measuring 0 H. 94. Thus, plaintiff claimed to be owner and possessor of 0 H. 94 R land. Plaintiff further contended that, defendant no. 1 to 8 and 10 also have their agricultural land adjacent to the suit property. Defendants took disadvantage of this fact and made encroachment over the suit property to the extent of 4 R land. Therefore, the plaintiff filed present suit for removal of encroachment and to get it's vacant possession of the suit property.

3. In spite of service of suit summons, defendant no. 1 to 7 and 10 failed to appear before the court, therefore, I have proceeded the suit ex-parte against defendant no. 1 to 7 and 10.

4. Heard learned advocate Shri.S.A.Awachar for the plaintiff.

5. Considering application supported with affidavit in the light of plaint, it appears that, plaintiff claimed to be owner and possessor of the suit property. The plaintiff has an agricultural land in gat no. 749 total ad-measuring 94 R land. It is owned and possessed by

plaintiff. Defendants have also an agricultural land adjacent to the suit property. Moreover, the plaintiff is alleged that defendants have made encroachment to the extent of 0 H 4 R land out of total suit land. Therefore, to find out as to whether there is any encroachment made by defendants and to actual measurement of encroached portion, appointing of court commissioner will be essential. It shows that, there might be some boundary dispute between plaintiff and defendants. So, it will helpful to the court while deciding the real controversy of the suit.

6. It would be proper and justifiable to appoint the court commissioner for carry out the measurement of suit property and to prepare the map as per rules for submitting in the court. It would helpful to this court for the purpose of elucidating the matter in dispute and solve real controversy in the suit. Therefore, it is my view that the application deserves to be granted and expenses, if any, be beared by the plaintiff who applying for the court commissioner. In the result, I proceed to pass following order.

ORDER

1. The application is allowed.
2. Taluka Inspector of Land Record, Lonar is appointed as a court commissioner for the measurement of suit property.
3. Court commissioner is directed to measure the suit property as per survey manual in the light of application and submit report along with map.

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4. The plaintiff is directed to bear the expenses of court commissioner.
5. Both the parties are hereby directed to be co-operate to the court commissioner and supply all necessary document for the measurement.
6. Issue writ accordingly.

Place - Lonar
Date – 17.01.2023.

(V.S. Raut)
Civil Judge Jr. Div. Lonar
JO Code MH 02-2830