

Order below Exh. 14 in RCS No. 62/2018

1. This is the application of the plaintiff Under Order 26 Rule 9 of the Civil Procedure Code for appointment of court commissioner.
2. Read the application and say of defendant given on the same exhibit. Heard Ld. advocates of both the sides. Perused all the documents on the record.
3. Plaintiff has instituted the suit for perpetual injunction. Ld. advocate Shri Limbulkar of the defendant vehemently argued that it is not the suit for recovering the possession of encroached portion so as to grant the plaintiff the relief of court commissioner. Ld. advocate Shri Chikhale of the plaintiff submitted that plaintiff is the owner and possessor of the suit property hence his prayer of court commissioner be allowed.
4. Here I would like to point out that if the plaintiff is the owner and possessor of the suit property then he can get measurement of his property from the appropriate office. For that purpose assistant of court is not required. Further as aptly pointed out by ld advocate Shri Limbulkar of the defendant that this is the suit for perpetual injunction then court commissioner application is not tenable. Here I would like to point that on the perusal of roznama it appears that still temporary injunction application is not decided. As the suit is at unready stage and T.I. application is not decided plaintiff has to prove his case on its' own. Making of court commissioner application at this stage and praying for it amongst to creation of evidence. Hence I am not inclined to grant the prayer of court commissioner at this stage to the plaintiff. In an answer I pass following order-

Order

- 1] Application is rejected.
- 2] No order as to cost.

Sd/-

(Smt. Pooja N. Kokate)
Civil Judge (J.D.), Partur.
J.O. code 2489

Date : 11.12.2019

