

ORDER BELOW EXH.34.

This is an application by the plaintiff for appointment of court commissioner under Order 26, Rule 9 of the Code of Civil Procedure, 1908 (In short the “CPC”) to carry out measurement of his **33 x 14 Sq.Feets** plot situated at grampanchayat Surangli, Tq-Bhokardan, Dist-Jalna in property no. 243 (old no. 192),. (In short the “**Suit property**”)

02. According to the plaintiff, he is the lawful owner of the suit property, but defendants have made encroachment over it from southern side. Hence, he prays for appointment of court commissioner for ascertaining the real area of that encroachment made by defendants. Record shows that, in spite of sufficient opportunities defendants did not file their say. The copy of sale-deed no. 105/2004 and copy of namuna no. 08 of the suit property prima facie show plaintiffs ownership over it. According to the plaintiff, defendants have made encroachment over some portion of the suit property from southern side. Thus, he wants to remove the same. In this way, the real controversy in the suit is related to an encroachment. The issue no.1 is also accordingly framed. It is well settled that, an allegation of an encroachment cannot be proved unless there has been a measurement through an expert person i.e., TILR or DILR. Further, it is an acknowledged principle of law that, in a suit for removal of an encroachment and possession, appointment of court commissioner in the form of T.I.L.R., is must in order to bring on record actual situation of alleged encroachment. Therefore, measurement of the suit property by T.I.L.R., Bhokardan will be helpful in elucidating the matter in dispute. Hence, the application deserves to be allowed. Hence, order :-

ORDER

01. The application at Exh.34 is allowed.
02. The T.I.L.R., Bhokardan is appointed as court commissioner and directed to measure the plaintiffs **33 x 14 Sq.Feets** plot situated at grampanchayat Surangli, Tq-Bhokardan, Dist-Jalna in property no. 243 (old no. 192),.
03. The TILR, is directed to conduct the measurement of aforesaid plot and specify its exact area, boundaries of the respective parties, extents, location and description of an encroachment, if any, at the hands of defendants.
04. The TILR, shall submit the map along with its report of measurement to this court within **three month** from the date of receipt of this order.
05. The parties to supply all relevant documents to the T.I.L.R., Bhokardan, which are necessary for measurement.
06. The said measurement be carried out by giving prior notices to the all concerned parties, as per rules.
07. The plaintiff to bear the charges of measurement and he shall deposit the necessary charges to the office of T.I.L.R., Bhokardan, as earliest.
08. Issue commissioner writ accordingly.

Date :- 19/01/2019
Place :- Bhokardan.

Sd/-xxx
(Y.S. Akhare)
Civil Judge Junior Division,
Bhokardan.