

ORDER BELOW EXH. 31 IN R.C.S NO. 98/2013.

[Anusayabai V/s. Sitabai & oths.]

This is an application filed by the plaintiff for appointment of Court Commissioner.

2) The contention of plaintiff is that, she is the owner and possessor of land Gat no.30 to the extent of 33 R. Defendants have encroached upon said land from southern side to the extent of 2 R. In order to ascertain the alleged encroachment the appointment of Court Commissioner is necessary. Plaintiff prayed that, Court Commissioner may be appointed.

3) Defendants resisted the application by filing their say. They submitted that, testimony of plaintiff shows that, no encroachment took place as alleged on said land. They prayed for rejection of the application.

4) Perused application and say. Heard both sides.

5) Plaintiff alleged that, defendants have encroached upon suit property from the southern side. In order to identify the alleged encroachment the land of plaintiff and defendants in Gat no.30 and 31 are required to be measured from the Cadestral Surveyor. Unless and until the lands are measured, the alleged encroachment cannot be ascertained. Therefore at this juncture the testimony of plaintiff cannot be taken into consideration for appointment of Court Commissioner.

6) Considering the nature of the suit, I am of the opinion that, the appointment of Court Commissioner is necessary. Application deserves to be allowed. Hence, following order is passed.

ORDER

- (a) Application is allowed.
- (b) D.S.L.R Jafrabad is appointed as the Court Commissioner.
- (c) D.S.L.R Jafrabad is directed to measure the Lands of plaintiff and defendants in Gat no.30 and 31 village Akola (Dev), Tq. Jafrabad, Dist. Jalna by issuing due notice.
- (d) Plaintiff and defendants shall remain present at the time of measurement.
- (e) D.S.L.R, Jafrabad is further directed to prepare a map of measurement and show encroachment, if any.
- (f) Plaintiff shall bear the expenses of measurement.
- (g) D.S.L.R, Jafrabad is further directed to file their report immediately after measuring the properties, as directed.
- (h) Issue Commissioner writ accordingly.

Date :- 07/10/2016.

Sd/-
(N. A. Sarosiya)
Civil Judge (J.D)
Jafrabad.