

ORDER PASSED BELOW EXH.84

1. By way of this application, plaintiffs have prayed to appoint Deputy Superintendent Land Records, Shirol to measure old survey No. 373 on the basis of Tippan Utara of the Falani Map. He also prayed direction be given to Court Commissioner to measure area of plaintiff from block No. 1486 and give report to that effect. So she shall submit report in respect of total area from Survey No. 373 and give directions to Court Commissioner to show house of plaintiff, well, road passing between land of plaintiffs and defendants etc. in the map alongwith detail report to that effect. According to plaintiffs, in this suit they have prayed to declare that previous measurement carried out by concerned authorities in respect of said property by M.R. No. 3979 dated 27.6.2014, M.R.No. 3997 dated 11.2.2011, M.R. No. 3882 dated 9.2.2010, M.R.No. 3977 and 3949 dtd. 26.10.2010, M.R. No. 3893 dated 11.2.2011 and M.R.No. 4224 dated 19.9.2002, are illegal on various grounds. Hence, they prayed to give directions to Dy. Superintendent of Land Records, Shirol to take fresh measurement.

2. In spite of opportunity given, defendants did not file say and hence application proceeded without say of defendants.

2

**Reg. Civil Suit No. 214/2012.
CNR NO.: MHKO07-000468-2012.**

3. Heard learned advocate for plaintiff. Defendants and their advocate are absent when called.

4. It appears that in this suit, plaintiffs have prayed to declare that previous measurement are illegal and incorrect. So also they prayed to restrain defendants from causing obstruction to their possession over suit property. It appears that there is boundary dispute between the parties and according to plaintiffs previous measurements are illegal. Issue to that effect is framed at Exh. 61 as to whether previous measurement is incorrect and illegal. Therefore, detail measurement of entire old survey number that includes all new Gat numbers, is required to be done. No any loss or prejudice will cause to other side, if measurement is completed. However, considering age of matter process of measurement is to be completed within reasonable time. To that effect direction needs to be given to Court Commissioner to complete work of measurement within reasonable time. In result, I pass following order.

ORDER

- (1) Application is allowed.
- (2) Superintendent of Land Records, Kolhapur is hereby appointed as Court Commissioner to take measurement of entire survey No. 373. Court Commissioner is further directed that he shall

show in his map as well as report, detail area of Survey No. 373 and area of every Gat number in the said Survey number.

- (3) Court Commissioner shall submit his report in detail in respect of house of plaintiff, disputed well and road passing between the property of plaintiff and defendant and show the same in map also. He shall give detail measurement of each and every boundaries of Survey No. 373 as well as internal measurement of every Gat number.
- (4) Court Commissioner shall submit his report in respect of encroachment, if any carried out by any of the holder over the property of another hold in Survey No. 373.
- (5) Court Commissioner shall carry out aforesaid measurement through tippan utara and phalani map or any other procedure given in the law and ensure that measurement will be without any fault.
- (6) Considering pendency of matter before the Court since 6 years, Court Commissioner is directed to submit his report as early as possible and in any case within three months from today.
- (7) Plaintiffs are directed to deposit requisite commission fee in the office of Superintendent of Land Records, Kolhapur and submit its copy in this Court.
- (8) Issue commission writ accordingly .

Sd/-

(K.G. Sawant)

Dt.: 01.12.2018.

Civil Judge Senior Division,
Jaysingpur.

