

ORDER PASSED BELOW EXH.22

This application is filed by plaintiffs praying therein to appoint Dy. Superintendent of Land Records, Shirol to take measurement of land from block No. 1488/1 and submit his report in respect of encroachment committed by adjacent land owners over the said property.

2. According to plaintiffs, previously on 3-4 occasions measurements of said property were carried out and on every occasion defendants have objected to measurement carried out by plaintiffs. Therefore, now property is required to be measured through Court Commissioner.

3. Defendant filed his say. It is necessary to mention here that in all three matters are pending between the parties and same are pending before me. In all these matters parties have moved application for appointment of Court Commissioner. Already in Reg. Civil Suit No. 214 /2012 District Superintendent of Land Records, Kolhapur is appointed to measure entire land from Survey No. 373 that includes land from Gat No. 1488/1 i.e. land which is prayed by plaintiffs in this suit to be measured by Deputy

Superintendent of Land Records, Shirol, so also from other Gat numbers.

4. Learned advocate for plaintiffs in support of his argument relied upon judgment passed by the Hon'ble Bombay High Court in the case of *Kashinath Chinduji Shastri Vs. Haribhau Nathuji Bawanthade, 2004(2) Mh.L.J. 723.* In this matter, the Hon'ble High Court has held that when there is dispute about encroachment or dimension of site, commissioner must be appointed by Court to take joint measurement. Thus, the Hon'ble High Court has observed that in order to find out encroachment, joint measurement is necessary. In such circumstances, land from entire survey number is required to be measured and thereafter land from every Gat number is also be measured then and then only boundaries of every Gat number coming in this survey number can be fixed. As stated earlier in one of the matter District Superintendent of Land Records is directed to measure land from Survey No. 373 , it will be proper and appropriate to measure property from entire survey number through Dy. Superintendent of Land Records, Shirol. In result, I pass following order.

ORDER

(1) Application is allowed.

(2) Deputy Superintendent of Land Records, Shirol is hereby appointed as Court Commissioner to take measurement of land from Survey No. 373 situated at village Danoli and first fix the boundaries of survey number and prepare map of survey No. 373. Thereafter he shall measure land from each of the Gat number coming in this survey number and fix the boundaries of each and every Gat number.

(3) Court Commissioner shall mention in respect of encroachment if any committed any of the holder over the property of another holder.

(4) Court Commissioner shall submit his report in detail alongwith map and measurement showing measurement of each and every line shown in the map and encroachment if any find out by him.

(5) Court Commissioner is directed to submit his report as early as possible and in any case within three months from today.

(6) Plaintiffs are directed to deposit necessary commission fee in the office of Dy. Superintendent of Land Records, Shirol itself.

(7) Issue Commission Writ accordingly.

Dt.: 01.12.2018.

Sd/-
(K.G. Sawant)
Civil Judge Senior Division,
Jaysingpur.

