

MHKO070013312019



**ORDER BELOW EXH.14 IN**  
**Regular Civil Suit No. 113/2019**

**Bahadur Maulla Bagsar**

**Vs.**

**Ashok Aadgonda Patil**

1. This is an application filed by plaintiff for appointment of Court commissioner.
2. Plaintiff submitted that, he has filed present suit for permanent injunction, possession and mandatory injunction. Plaintiff submitted that the defendants have encroachment area of 0.03.00 R and 0.0200 R (in Vasala No.1 & 2) in the suit property Gat No. 520/2. Dispute between parties for the encroachment of suit property. He prayed that appoint the court commissioner.
3. Ld Advocate of Defendants have submitted that, necessary order may be passed.
4. Perused the application and say filed by plaintiff. Heard learned advocates for both the sides. After perusal of record and as per provisions of Order 26 Rule 9 of C.P.C., the court can appoint Court commissioner for local inspection in order to elucidate real dispute between the parties. Moreover, it is now settled position of law that, wherever there is dispute about the boundaries and encroachment, it is appropriate to appoint Court commissioner. In the present case , the main dispute is regarding encroachment and measurements of suit property.
5. Considering fact and circumstances, it is necessary to appoint Court commissioner to know the exact situation and measurement of the suit property. Appointment of court commissioner will not prejudice to the defendants. It will help to know the better situation as well as the real dispute between parties. Considering this T.I.L.R. Shirol, Dist.- Kolhapur is the proper authority which can be appointed as court commissioner. Hence, the order.

## ORDER

- (1) Application at Exh. 14 is allowed.
- (2) The T.I.L.R., Shirol, Dist.- Kolhapur is appointed as Court commissioner.
- (3) The Court commissioner is directed to make measurement as per application at Exh. 14 filed by plaintiff, by following due procedure in that regard and by accepting lawful charges for the same.
- (4) The Court Commissioner is directed to measure the suit property bearing Gat no. 520/2 and highlight the encroached area if any and submit the report to this court on or before next date.
- (5) The Court commissioner is also directed to issue notices to the parties well in advance to inform the date of measurement.
- (6) Both the parties are directed to furnish relevant documents in regards to court commission and submit the same in this Court.
- (7) Plaintiff is directed to pay necessary commission charges in the concerned office.
- (8) After due compliance writ be issued.

Date.- 13/11/2024

**(Smt. V. M. Kolekar)**  
3<sup>rd</sup> J.t. Civil Judge  
Junior Division, Jaysingpur