

MHKO100000562015



Order passed below Exh. 38
(MHKO100000562015)

This is an application by the plaintiff under Order 26 Rule 9 of the CPC, for appointment of an advocate as a court commissioner.

2. Read the application and say filed thereon at Exh. 40. I have heard learned advocate Shri. R.R.Chavan for the plaintiff and Shri. G.P.Patil for the defendant. Both sides have argued as per their contentions, hence it is not reiterated.

3. I have perused the plaint, written statement and entire documents on record. It reveals that TILR has conducted measurement and submitted report at Exh.22. Till, date the plaintiff has not challenged said report but the defendant has filed reply at Exh.25. However, Id advocate for the plaintiff has submitted that earlier court commissioner has not clearly mentioned facts viz situation, panchanama, measurement, western side wall and encroached pirapit, encroachment of iron grill etc. hence, commission is required. It reveals from the map attached to the plaint and measurement map filed by the commissioner, that CTS No.269 and 270 are adjacent properties. The suit is filed for removal of encroachment as averred in the plaint. The dispute is about the boundaries and encroachment, as averred. Hence, in order to elucidate matter in dispute it is necessary to bring on record the situation of the spot as pointed out in the application. No prejudice will cause to other side merely by appointing any advocate as a court commissioner but it will help to decide the dispute finally. Ultimately, I pass following order:

ORDER

1. Application is at Exh. **38** allowed.
2. Ld Advocate Shri. S.B. Mohite is appointed as a Court commissioner.
3. The court commissioner is directed to visit the spot and conduct inspection of the disputed property viz. C.T.S No.270, 2] prepare panchanama of spot showing all situation, 3] carry out its measurement, 4] prepare map showing western-side wall and encroached pira-pit, if any, 5] show situation of iron grill, if any etc between CTS No.269 and 270 of village Mahagaon Tal. Gadhinglaj.
4. The commissioner shall prepare detail report and submit it on or before next date fixed in the matter.
5. The plaintiff shall deposit commissioners fee of Rs.**4000**/-.
6. The plaintiff shall take effective steps, if failed necessary orders will be passed considering the future situation.
7. Issue commission writ on pf.

Date 04/11/2019
Place : Gadhinglaj

(M.T. Kharade)
2nd Jt. Civil Judge Jr. Division
Gadhinglaj