



Order Below Exh. 57 In RCS No. 11/2015
CNR No. :- MHKO110000562015
Passed on 03/11/2023

01. This is an application filed by the plaintiff and thereby sought directions against court commissioner i.e. TILR, Hatkanangale.

02. It is the contention in the application that, the plaintiff has filed this suit for removal of encroachment. In which by the order of the court, court commissioner was appointed for measurement of plaintiff and defendants land. The court commissioner has measured the suit property and filed his final report on record. The plaintiff raised objection to the report. The court commissioner failed mentioned the area of plaintiff as well as defendant. Further, in the map the court commissioner failed to show where the area of plaintiff and defendant situated. Therefore, prima-facie there is defect in commissioner report. Further, the court commissioner failed to mentioned the measurement of the plaintiff and defendants area and their possession thereon. Therefore, there is prima-facie defect in the commissioner report. Therefore, prayed for send commissioner report for correction.

03. Accordingly, say of ld. advocate for defendants was called for by endorsing his say. He strongly oppose the instant application on the grounds that, to prolong the matter instant application is filed. The plaintiff cannot asked re-measurement and correction. Therefore, prayed for rejection of this application.

(2)

04. Perused the application, record and proceeding. Heard both side at sufficient length. Admittedly, suit is filed for mandatory injunction. Record shows that, by the order of court the TILR, Hatkanangale was appointed as a court commissioner to measure the suit property. On perusal of commissioner report along with map, prima-facie it seems that, the commissioner failed to mentioned the measurement of the plaintiff and defendants area and their possession thereon. There is prima-facie defect in the commissioner report and map. On perusal of map it seems that, the commissioner left the blank area of plaintiff portion. I have found substance in the application and argument advanced by ld. advocate for the plaintiff. Accordingly, I proceed to pass following order.

ORDER

1. Application is allowed.
2. The court commissioner report at Exh. 52 along with map be send to TILR, Hatkanangale for correction the defect.

Date : 03/11/2023
Peth-Vadgaon.

Sd/-
(S. D. Sonawane)
Jt. Civil Judge Junior Division,
Peth-Vadgaon.