



Reg. Dar. No.16/2021
Sudhakar Vs. Prashant
CNR-MHLA120020532021

ORDER BELOW EXH.01

1. The present execution petition is moved by the decree holder who is plaintiff in RCS No.163/2016, he thereby request to appoint the Court Commissioner to fix the boundaries of land of plaintiffs and defendant as per decree of the court.
2. Despite of sufficient opportunity, judgment debtor (in short J.D.) failed to file say on this execution petition. Therefore, execution petition proceeded without say of J.D.
3. It is the contention of the decree holder that, he has filed suit RCS No.163/2016 for fixation of boundaries in respect of suit property. He further submits that, the suit was decreed and court directed to appoint T.I.L.R., Nilanga for measurement and fixation of boundaries. He specifically submitted that, the decree passed on 09/03/2021 and appeal was not preferred to Appellate Court. Therefore, he requested to appoint the T.I.L.R., Nilanga as a court commissioner for to carry out joint measurement of the land in RCS No.163/2016 as per decree of the court and accordingly letter be issued to concern T.I.L.R. office. The decree in RCS No.163/2016 passed on 16/03/2021. This execution petition filed on 11/08/2021. Admittedly, J.D. failed to file say on this execution petition and not filed any objection. Decree holder has a right to get fruits of the decree. So it is necessary to fix the boundaries accordingly as per decree of the court.
4. This court being executing court cannot go behind the

decree of the court. The present suit is filed for fixation of boundaries and accordingly decreed in terms to appoint the T.I.L.R. for fixing the boundaries of suit property in RCS No.163/2016. It is further transpires that, plaintiff or D.H. has directed to pay the measurement fees as per rule. Therefore, D.H. has filed this execution for fixing the boundaries through T.I.L.R., Nilanga. J.D. after service of notice not filed any say to this execution petition. Therefore, it is necessary to carry out measurement as per decree of the court.

5. The very object of the execution of decree to get the fruits to the decree holder thus I am of the opinion that measurement of suit property is necessary to execute the order passed in RCS No.163/2016. In the result, I proceed to pass following order;

ORDER

1. Execution petition is allowed.
2. T.I.L.R., Nilanga is appointed as a Court Commissioner. He is required to fix the boundaries of suit property as per decree passed in RCS No.163/2016 on 16/03/2021 and to fix the boundaries by showing the proper description of the suit property of decree holder i.e. plaintiff and judgment debtor i.e. defendant along-with report. He shall submit detail report within two months.
3. The decree holder is directed to deposit necessary Commission fees jointly within 15 days.
4. Writ be issued accordingly.

Date : 15/09/2023

(**N.A.L. Shaikh**)
2nd Jt. Civil Judge J.D. Nilanga.