

ORDER BELOW EXH. 66 IN R.C.S. No. 91/2013**(Pandurang Vs. Parbat and others)**

The application is moved by the plaintiff for appointment of Court Commissioner. It is his contention that the suit is filed for the cancellation and setting aside the order passed by the Tahsildar, Renapur in Revenue case No. 2012/JM/KV-32, dated 23/5/2013. The Tahsildar, Renapur granted way to the field of defendants by effecting the panchanama. It is the contention of the plaintiff that there is no need to grant the way to the defendants through the land of the plaintiff bearing block no. 125. Earlier also, same dispute arose about the encroachment and the suit bearing R.C.S. No. 727/1997 came to be filed, which is decreed and the matter is now subjudiced before the Hon'ble High Court bearing Second Appeal No. 332/2008. Again defendant nos. 1 to 3 have filed R.C.S. No. 313/2008 for injunction, which came to be dismissed. All these facts suppressed by the defendants from the revenue authorities and in collusion with obtained the order from the Tahsildar, Renapur. The entire process of granting the way adopted by the Tahsildar, Renapur is illegal and there is no need to create the way between the lands of the plaintiff and the defendants in South-North direction. So, to bring on record and to elucidate the matter in dispute, it is necessary to carry out the local inspection through the Court Commissioner regarding the existence of Shiv road towards the Southern side of defendants land Gat No. 126, 127, 128, 129 and 130. Therefore, it is necessary to appoint the Court Commissioner for local inspection about the ways available to the defendants land.

2. The defendants resisted the application by filing say at Exh. 68 and submitted that the spot inspection already carried out by the revenue authorities before passing the order of granting the way to the defendants to approach their lands bearing block no. 126 to 130. The plaintiff has moved this application just to prolong the matter and for unnecessary repetition of the inspection of the spot. At last they prayed for rejection of the application.

3. Heard the learned counsels for both the parties. Perused the record.

4. It is not disputed that the revenue authorities granted the way to the defendants to approach their lands bearing block no. 126 to 130 of village Tattapur, Tq. Renapur. The said order is challenged by the plaintiff. The only submissions of the defendants is that the inspection is already carried out by the revenue authority and thus there is no need to appoint the Court Commissioner for local inspection to see the approach ways to the defendants land.

5. It is necessary to see that the revenue authority has granted way by verifying the spot inspection report, but the said inspection as well as the entire order of the Tahsildar, Renapur is under challenge before this Court. So, to consider the validity as well as the procedure adopted by the Tahsildar, Renapur and the factual aspect of the spot, whether there is necessity to grant the way to approach to the lands of the defendants is requires to be considered afresh. So, I think the appointment of the Court Commissioner to inspect the land of the plaintiff and the defendants to point out the approach way appears to be helpful to the Court to decide the dispute more effectively and finally. At the same time no prejudice would cause to the defendants, who already granted way by the Tahsildar, Renapur. Thus, the application will have to be allowed. Hence, the following order.

ORDER

1. The application is allowed.
2. The Court Commissioner for the local inspection of the fields of the plaintiff and the defendants to see all the approach ways and to prepare the rough sketch map, is appointed.
3. The plaintiff is directed to bear the expenses of the Court Commissioner.
4. Both the parties are directed to suggest the names of the Court Commissioner within 15 days.

Date 29/6/2016

**(V.J. Dongre)
Civil Judge, Jr. Division,
Renapur.**