

ORDER BELOW EXH. 15 IN R.C.S. No. 147/2017
(Tukaram Vs. Shivaji & Ors.)

CNR NO. MHLA130006952017

1. The present application is filed by plaintiff for appointment of Court Commissioner under O. 26 R. 9 of the Civil Procedure Code.

2. By filing present application it is submitted that the present suit is filed for recovery of possession as well as for perpetual injunction, wherein the defendants are obstructing the possession of the plaintiff and trying to encroach on the suit property. Therefore, it is necessary to appoint TILR as a Court Commissioner to measure the suit property and filed his report.

3. The ld. advocate for defendant nos. 1 to 3 file his say and submitted that the application is not tenable. There is no description as to property, which is to be measured by the TILR. The application is vague, therefore it may be rejected.

4. Heard both the sides.. After perusal of record it is seen that the plaintiff has contended in this plaint that he is owner and possessor of land adm. 70 R out of 85 R of land Gat NO. 237 of village Dawangaon, Tal. Renapur, Dist. Latur. He further contended that on 20/8/2017 he measured the suit property through private measurement officer and then he came to know that the defendant no. 1 has encroached upon 15 R land from eastern side. On the other hand the defendants in their written statement denied the same and stated that there is no encroachment made by the defendants. Further it is seen that the plaintiff has not mentioned the exact portion of encroachment and he has not made the encroachment as the suit property. He has not filed any map to ascertain whether the defendants are adjacent

owner of the plaintiff. Further it is seen that the application is vague. The reasons for necessity of appointment of Court Commissioner is not mentioned. As the application is based on vague pleading, the applicant is not entitled for the relief of appointment of the Court Commissioner. Hence, I pass the following order.

ORDER

1. The application is rejected.
2. No order as to costs.

Dated 09/07/2019

**(O. M. Mali)
Civil Judge J.D. Renapur.**