


MHLA140001252025 	<u>R.C.S. 37/2025</u> Balaji Pandurang Shinde Vs. Govind Bhimrao Lomte and other 2
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ORDER BELOW EXH. 09

By this application the plaintiff prayed to appointment of T.I.L.R., Ausa for measurement of the property and to fix the boundaries. Perused the application. No say filed by the defendants. Hence, application is proceeded without their say.

2. Plaintiff submitted that he is owner of the suit property as mentioned in para no.2 in the plaint situated at Nagarsoga, Tq. Ausa, Dist. Latur. The defendants are adjacent land holder of the suit property. The defendants trying to obstructed the plaintiff upon his land. Therefore, he prayed to appointment of TILR Ausa for measurement of land in his possession.

3. Read the application. Perused the record. Heard learned advocate Shri. A.G.Kulkarni for the plaintiff. The present suit is of encroachment and possession thereof. It is to be noted that, there is an averment in the pleading of the plaintiff that defendants have trying to obstruct upon his land. There is no dispute that parties to the suit are adjacent land holders.

4. Order XXVI Rule 9 provides that in any suit in which the court deems a local investigation to be requisite or property for the purpose of elucidating any matter in dispute the court may issue

commission to such person as it thinks fit.

5. Thus taking into consideration the legal provision a court commissioner may be appointed for elucidating matter in dispute. It is settled position of law that, in order to ascertain encroachment, the best evidence would be measurement of land by an expert witness. The T.I.L.R. is an independent agency and measurement carried on by such agency would not cause prejudice to any of the parties. Thus, appointment of T.I.L.R will help the court to finally decide the suit on merit. In such circumstances It would be just and appropriate to measure the land of plaintiff and defendants jointly by TILR for just decision of the matter. Hence, I proceed to pass the following order:

ORDER

- (i) The application is allowed.
- (ii) The T.I.L.R. AUSA is hereby appointed as a Court Commissioner to measure the whole Gat No. 258/1, 259/13, 247/B/1 (as per mentioned in the application) situated at Nagarsoga, Tq. AUSA, Dist. Latur and to furnish the measurement map, along with his report.
- (iii) The plaintiff is directed to bear the expenses of Court Commissioner.
- (iv) The plaintiff to supply the requisite documents to the Court Commissioner.

- (v) The plaintiff is directed to deposit requisite court commissioner fees.
- (vi) The Court Commissioner, T.I.L.R., AUSA. is directed to carry out measurement after issuing notices to both parties and preferably in presence of both or concern the parties and to file his report within three months from the date of receipt of the commission writ.
- (vii) Issue commission writ accordingly to the T.I.L.R., AUSA.

Place: AUSA
Date: 5/1/2026

(Smt. S. D. Sabale)
2nd Jt.Civil Judge, J. D., AUSA.