

Apparao Lakshman Sabane - Plaintiffs

VERSUS

Madhavrao Bhimrao Patil and ors - Defendants

ORDER BELOW EXH.14 IN RCS NO. 437/2017

1] This an application filed by the plaintiff for appointment of a T.I.L.R. as a Court Commissioner under Order 26 Rule 9 of the Code of Civil Procedure. Defendants have filed their say and gave their no objection on the present application. Heard the learned Advocates for both sides.

2] The plaintiff has contended that defendants have committed an encroachment in the suit property. The plaintiff asked defendants for measurement of suit property, however, defendants have denied the same. The plaintiff is the owner and possessor of the suit property. The plaintiff contended that if TILR is appointed for measurement of suit property and for fixation pf boundaries of the same then it will finally settle disputes between the plaintiff and defendants. Hence, the plaintiff prayed for appointment of T.I.L.R. for measurement and to fix boundaries of the suit property.

3] Perusal of the plaint (Exh.1) shows that the plaintiff has expressly contended that the defendant are destroying a dike in between the suit property and their landed property that defendants have committed an encroachment in suit

properties. The plaintiff has filed the present suit for declaration, perpetual injunction and for fixation of boundaries. It is well settled legal position that boundary disputes can be best adjudicated by way of an appointment of T.I.L.R. In the present suit also the dispute is regarding the boundaries which can be best adjudicated by appointment of TILR. Thus, appointment of T.I.L.R. will help the court to finally decide the suit on merit. Hence, I 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 plaintiff's landed properties admeasuring 61R in Survey No.97 and 19R in Survey No.98 as well as Survey No. 95 admeasuring 1H 51R, Survey No. 96A admeasuring 0H 25R and Survey No. 96B admeasuring 0H 75R and to fix the boundaries of the same.
- (iii) The plaintiff is directed to bear the expenses of the Court Commissioner.
- (iv) The Court Commissioner is directed to carry out measurement after issuing notices to both parties and preferably in presence of both the parties and to file his report within one month from that date of receipt of the commission writ.
- (v) Issue commission writ accordingly to the T.I.L.R., AUSA.

Place : AUSA
Date : 06/10/2017

(R. D. Gaikwad)
Jt. Civil Judge (J.D.)
AUSA, Dist. Latur.