

R.D No. 04/2022
Shobha Vs. Babruvan

ORDER BELOW EXH. 15
(CNR No. MHLA140016552022)

By this application the Decree holders prayed to measure and fix the boundaries of the suit property and to give possession of 27 R land from the Judgment debtors. The decree holder have filed one undertaking below Exh. 37 and thereby prayed to fix the boundaries of disputed land firstly as per measurement carried out by T.I.L.R. AUSA dated on 03.04.2007 i.e. measurement map Exh. 117 which is part of the decree passed in R.C.S. No.60/2005.

2. Perused the contents of application and say filed thereon. Heard learned advocate for both side.

3. Admittedly, the suit of decree holder i.e. R.C.S. No. 60/2005 was decreed by the Court on 05.12.2009 and the appeal preferred by the decree holder came to be dismissed by the Hon'ble appellate Court on 27.02.2020. The decree holders yet not get the fruit of decree passed in the year of 2009. The objections raise by the judgment debtors are not sufficient to reject the application. Because the Court has specifically directed the defendants to handover the 27 R. land to the plaintiff as shown in map Exh. 117 within two months. But till today the judgment debtors not handover the vacant possession of the said area without having any bonafide reason.

4. Learned advocate of both parties submitted that, there is no stay to the instant proceeding by the Hon'ble High Court. Learned

advocate of Judgment debtor Shri. S.G. Kamble has filed copy of Second Appeal no. 23988/2020. But he further submitted that, there is no stay granted by the Hon'ble High Court till today. As well as the judgment debtors not filed copy of stay order. Therefore, considering the reason mentioned, the application is deserves to be allowed as prayed and as per undertaking filed below Exh.37. Hence, I proceed to pass the following order:

:: ORDER ::

- (i) The application **Exh. 15** is partly allowed.
- (ii) The T.I.L.R. AUSA is hereby directed to fix the boundaries of the 27 R. land shown in map Exh.117 of decree passed in R.C.S. No. 60/2005.
- (iii) The decree holder is directed to bear the expenses of Court Commissioner, If any.
- (iv) The decree holder shall furnish the document such as decree, map Exh. 117 and other necessary document required for the fixation of boundaries to the Court Commissioner.
- (v) The Court Commissioner to file his report after fixation of boundaries in the Court as early as possible.
- (vi) Accordingly, Issue letter to the T.I.L.R. AUSA.

Place: AUSA
Date: 03/09/2024

Sd/-
(N. B. Rathod)
3rd Jt.Civil Judge, J. D., AUSA