

**ORDER BELOW EXH. 09 IN R.C.S. No. 1168/2022**  
**Ashabai Vs. Baswaraj and others**  
**CNR No.MHLA140028032022**

The present application is filed by plaintiff for appointment of T.I.L.R. AUSA for measurement and fixation of boundaries of the land bearing Survey/Gat No. 183 area 01 H. 30 R. out of 8 H. 60 R. situated at Kharosa, Tq. AUSA, Dist. Latur belongs to plaintiff.

2. The learned advocate for the plaintiff has contended that plaintiff is the owner of the suit property situated at village Kharosa, Tq. AUSA. The defendants are adjacent land holders of the suit property. It is alleged that, the defendants are encroaching the land of plaintiff's i.e. the suit property. Therefore, plaintiff requested for measurement and fixation of boundaries of above mentioned property through T.I.L.R. AUSA. However, the defendants denied the same. Therefore, plaintiff has filed present suit and pressed instant application and prayed for appointment of TILR AUSA for inspection and measurement of suit property belongs to plaintiff.

3. The say of defendant is called on application. The defendants have not filed their say. Hence, the application proceeded without say of defendants on merit.

4. Perused the application and say filed below itself. Perused the record. Heard both. The present suit is for encroachment and recovery of possession of the suit property. Thus, in sum and substance it appears that the plaintiff and defendants are adjacent holders of the land and dispute between them pertains to boundary.

5. 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.

6. 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 the boundaries and to resolve boundaries disputes, 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 that, the measurement of lands of plaintiffs is carried out by independent agency. Hence, I proceed to pass the following order;

**ORDER**

- (i) The application is partly allowed.
- (ii) The T.I.L.R. AUSA is hereby appointed as a Court Commissioner to measure the land bearing Survey/Gat No. 183 area 01 H. 30 R. out of 8 H. 60 R. situated at Kharosa, Tq. AUSA, Dist. Latur belongs to plaintiff (as mentioned in para-2 of the present application) and to furnish the measurement map showing encroachment noticed if any, 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 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 three months from the date of receipt of the commission writ.

(vii) Issue commission writ accordingly to the  
T.I.L.R., Ausa.

Sd/-

Place: Ausa

Date: 24/06/2025

(Shri. Awate P. P)

Jt. Civil Judge, J. D., Ausa.