

RCS No. 239/2021

Maroti Vs.. Gangadhar & ors.

ORDER BELOW EXH.33

MHLA15001353-2021

The present suit is filed for recovery of possession. It is story of plaintiff that, mother of plaintiff Rukminbai Babarao Patil has owned land adm. 4 H. 55 R in gat no. 444 at village Mahalangra Tq. chakur Dist.-Latur. Defendant no.1 has sold his land to the defendant no.2 to 7 without having measurement. At present defendants no.4,5, and 7 have encroached upon 80 Aars land on the northern side of plaintiff's land. Defendant no.2, 3 and 6 have encroached 20 Aars land upon the plaintiff land from northern side land of defendant no. 2, 3 and 6. Though plaintiff requested to defendants to handed over the possession of northern side 100 Aars encroached land to plaintiff, but they denied it. So, by present application the plaintiff has prayed to appoint the D.I.L.R. as court commissioner as prayed.

2. On the other hand, defendants filed their say on the back lief of the application and contended that present application is pre-mature. the plaintiff wants to collect the evidence through court. hence objected by the defendants.

3. Perused the application and say thereon. Heard learned advocate for both sides. The Order 26 Rule 9 of the Code of Civil Procedure states the appointment of court commissioner for making local investigation. The court can

issue court commission for the purpose of local investigation in order to elucidating any matter in dispute. The court commissioner also can be appointed in boundary dispute or in encroachment suits. The present suit is for recovery of possession of encroached land. So, the plaintiff intents to bring on record the factual position of his land.

4. It is settled principal of law that the court commissioner needs to be appointed in the encroachment suit. The report of court commissioner will help to elucidate the matter. Hence, as prayed by the plaintiffs it is necessary to appoint D.I.L.R as a court commissioner. Hence, I proceed to pass the following order.

ORDER

1.	The application at Exhibit 33 is hereby allowed, as under-
2.	The DI.L.R., Chakur is hereby appointed as a Court Commissioner for carrying out the measurement as prayed in the application, at village Mahalangra Tq. Chakur Dist. Latur and fix the boundaries of the land of plaintiffs and to show the encroachment, if any, and submit its report within two months.
3.	DILR, Chakur shall serve intimation notice to the parties and adjacent land owner before the date scheduled for carrying out measurements.
4.	DILR, Chakur shall prepare his detailed report along with Map and shall submit the same on record of the this court as early as possible after

	carrying out measurements.
5.	Plaintiff shall deposit the charges of court commissioner directly in the office of DILR, Chakur.
6.	Plaintiff is directed to pay the requisite fees of measurement in the office of DILR, Chakur.
7.	Plaintiff is directed to supply all the necessary documents to the court commissioner.
8.	The copy of this order be given to the court commissioner free of costs.
9.	Office to issue necessary writ.

Place :Chakur
Date :03/03/2025

sd/-
(M.S. Luniya)
Jt. Civil Judge Jr. Division,
Chakur.

CERTIFICATE

I affirm that the contents of this P. D.F. file order are same word for word as per original order.

Name of Steno	: M.B. Pathan
Court Name	: M.S. Luniya, Jt.C.J.J.D., Chakur.
Order Date	: 03/03/2025
Order signed by presiding officer on	: 03/03/2025
Order uploaded on	: 03/03/2025