

MHND060010132023



R.C.S. No.112/2023

Girish Vs. Nirmala

ORDER BELOW EXH-11

(Date 27.10.2023)

The plaintiff has filed present application under Order XXVI Rule 9 of the Code of Civil Procedure for appointment of Court Commissioner.

02. **The plaintiff's claim in the present application is as under :-**

The main suit is filed by plaintiff claiming therein that the defendant in collusion with each other trying to interfere or obstructs the peaceful possession of plaintiff over the suit land and encroached over there. The suit land bearing Gut No.265/A admeasuring 01 H. 51 R. situated at Biloli, Dist. Nanded. The dispute is boundary dispute in between the parties to suit. For the purpose to know actual position of the suit land, it is essential to measure the suit land by appointing Court Commissioner. It will help in final adjudication of this matter. Thus, in order to bring real factual position at the spot, suit property is required to be measured by appointing Court Commissioner. Hence, plaintiff prayed that the Court Commissioner be appointed.

03. The defendant objected the same by filing her say on it.

04. Gone through the application. Heard both learned Advocates.

05. On perusal of the present application, in its body goes to show the suit land as Gut No.265/A. Even in the prayer clause, the suit land of plaintiff is mentioned as Gut No.265/A. However, the plaint in its claim clause 'A' goes to show that suit

..2..

land is referred as S. No.328. The same S. No.328 is also referred as suit land in prayer clause. Thus, there is no consistency in the present application and the plaint in context to what actual the suit land number is. In such facts situation, the application deserves to be rejected. Hence, the Court proceed to pass following order :

ORDER

01. Application stands rejected.
02. C.O.A.

Date : 27. 10. 2023.

(A.A.K. Shaikh)
Civil Judge Sr. Division,
Biloli.

C E R T I F I C A T E

I affirm that the contents of this P.D.F. file Judgment are same word to word, as per the original Judgment.

Name of the Stenographer : Syed Iftexharuddin Arifuddin
Court Name : Court of Civil Judge S.D. Biloli
Date : 27. 10. 2023
Judgment signed by the Presiding Officer on : 27. 10. 2023
Judgment/Order uploaded on : 27.10.2023