

MHND160012382024



Order Below Exh.11 in RCS No.423/2024

(Mankarna Balaji Shinde Vs Ambadas Bhimrao Shinde and Other)

This is an application filed under Order XXVI Rule 9 of Code of Civil Procedure for appointment of Dy.S.L.R. as Court Commissioner for measurement and demarcation of the suit properties.

2. The plaintiff has filed the suit for declaration of ownership, demarcation of the suit property & injunction. The plaintiff has alleged that, defendants have committed encroachment over the suit properties. However, he is unable to state that, how much area have been encroached by the defendants. Therefore she filed the present application for measurement and demarcation of the suit property by appointing court commissioner.

3. The suit is proceeded ex parte against the defendant no. 1 to 6 vide order dtd.28/11/2024. Therefore, the present application also proceeded without say of the defendants.

4. Admittedly, suit is for declaration of ownership of plaintiff over the suit property bearing Gat No.70. The application is filed

on **21/01/2025**. It is supported by an affidavit of the plaintiff. The allegation in the suit and application are in respect of the encroachment over the suit property by the defendants. The 7/12th extract of the suit property bearing Gat No. **70** is filed on record. However, the plaintiff has not described the adjacent property of the defendants for carrying out joint measurement of the suit property and defendants properties. Therefore, considering the facts of the case, it appears that, the demarcation of the suit property is essential for elucidating the matter between the parties. No prejudice would be caused to the defendants if the joint measurement of the suit property along with defendants property is carried out. Therefore, considering the nature of the suit it appears that, the dispute between the parties cannot be properly elucidated unless and until the properties are jointly measured by appointing a court commissioner. Therefore, in view of above discussion the plaintiff has made out case for appointment of court commissioner to measure the suit property along with the defendants property and fix the boundaries of the suit property through Dy.S.L.R., Hadgaon. Hence, I pass the following order.

ORDER

1. Application is allowed.
2. The Dy.S.L.R. Hadgaon is appointed as a Court-Commissioner to carry out joint measurement of suit property bearing survey No. **70 area admeasuring of about 0H.75R.** and defendants properties respectively adjacent to suit property situated at **Mouje Bhategaon (Umri) Taluka-Hadgaon, District-Nanded.**
3. He is directed to carry out joint measurement of suit

property bearing survey **No.70** and defendants property adjacent **Bhategaon (Umri) Taluka-Hadgaon, District-Nanded**, as per survey manual.

4. He is directed to show the encroached area, if any, by different colour in the map.
5. He is directed to show the actual area in possession of respective parties of the properties.
6. He is directed to carry out measurement in the light of averments made in application vide **Exh.11** and plaint.
7. He is directed to carry out the commission work in presence of both the parties within two months, from the date of receipt of commission writ.
8. Plaintiff is directed to deposit requisite commission fees in Dy.S.L.R. Office, Hadgaon.
9. Plaintiff to provide photocopies of sale-deeds, application vide **Exh.11**, plaint and 7/12th extracts of the suit properties as well as properties of the defendants to the court commissioner.
10. Commission writ be issued accordingly.

Date: 24.06.2025

(Amarjeet B. Jadhav)
Civil Judge, Junior Division,
Hadgaon Dist Nanded

CERTIFICATE

I affirm that the contents of this PD.F file order/judgment are same word for word as per original order.

Name of steno : Anita S. Godam

Name of court : C.J.J.D.& JMFC
Court ,Hadgaon

Order Date : 24.06.2025

Judgment/order signed
by Presiding Officer on : 24.06.2025

Judgment/order
uploaded on : 24.06.2025