

MHND260000022022



ORDER BELOW EXH. 12

Plaintiff filed present application for appointment of cadastral surveyor to Taluka Inspector of Land Record, Ardhapur under Order XXVI Rule 9 of Code of Civil Procedure.

2. According to plaintiffs, they are owners and possessors of land in gut no. 57 total admeasuring 06 H 64 R to the extent of 87 R of village Pimpalgaon (M.) Tq. Ardhapur Dist. Nanded. Defendants are their adjacent land owners. They are continuously disturbing the peaceful possession of plaintiff's over the suit land. Plaintiffs measured their land through private surveyor and found that, defendant no. 7 to 10 encroached eastern side of the suit land to the extent of 10 R. Finally prayed to allow the application.

3. Suit summons were issued to defendants but they failed to appear before this court. Hence, matter proceeded ex-parte against them all. Plaintiffs wants to measure the land through Cadastral Surveyor. Hence, this application.

4. Considering the application following points arose for my determination, to which, my findings with reasons thereon are as under:-

Sr. No.	Points	Findings
1	Whether appointment of Taluka Inspector of Land Record as cadastral surveyor is necessary to determine present case?	In the affirmative
2	What order?	Application is allowed as per final order.

Points no. 01 and 02:-

5. Read application. Heard learned Advocate for plaintiffs and perused record.

6. Considering the facts of present case it is necessary to go through provision contend in Order XXVI Rule 9 r.w. Sec. 74 of Code of Civil Procedure and ratio in the case of Sanjay Khandale Vs. Govind Khandale. In this case order of appointment of Taluka Inspector of Land Record as Court Commission was set aside, on the ground that, no surveyor can be appointed to collect evidence. With all respect to the ratio laid down by Hon'ble Bombay High Court but in present case appointment of Taluka Inspector of Land Record is not for collection of evidence.

7. In present case, the plaintiff wants to measure its own land. Then this court is of opinion that, no prejudice would be caused to defendants. Considering all above aspects of the matter, this court is of opinion that, appointment of Taluka Inspector of Land Record is necessary. Hence, my findings to point no. 01 in the affirmative and in answer to point no. 02. I pass following order:-

ORDER

1. Application is allowed.
2. T.I.L.R., of Ardhapur is appointed for the following purposes-
 - a] To measure plaintiff's land in gut no. 57 of to the extent of 87 R out of 06 H 64 R of village Pimpalgaon (M). Tq. Ardhapur Dist. Nanded (reference be made to the Government record)
3. Plaintiff are directed to pay necessary fees for appointment of Court Commissioner.
4. T.I.L.R. of Ardhapur is directed to submit his report on or before dt. 22.01.2025.
5. All parties are directed to appear before the T.I.L.R., as and when call by T.I.L.R. office.
6. Copy of this order alongwith copy of Exh. 01 be given to the T.I.L.R. Issue writ accordingly.

Sd/-

Date :- 22/11/2024.

Place:- Ardhapur.

(Q.R.Syed)
Jt. Civil Judge Jr. Div.
Ardhapur.

CERTIFICATE

I affirm that the contents of this [P.D.F.](#) file order are same, word to word, as per the original order.

Name of the Jr. Clerk: A.V.Shahane

Court of : Jt. Civil Judge Junior Division, & JMFC Court No.
02, Ardhapur Dist. Nanded.

Date of pronouncement of Judgment/Order : 22.11.2024

Judgment/Order signed by the Presiding Officer : 25.11.2024

Judgment/Order uploaded on : 25.11.2024