



CNR No.MHNG100015052017
Spl.C.S. No.10/2017
(Old Spl.C.S. No.448/2015)
Keshav Vs. Shivkumar

ORDER BELOW EXH.76

(Order passed as on 06th day of April, 2021)

[01] The application is for issuance of show cause notice to Smt. V. A. Naik (Shirastedar) deputed at Deputy Superintendent of Land Record, Umred, Dist. Nagpur. Perused the application and say given by plaintiff at Exh.79. Also perused the documents below list Exh.78 and 81. Heard both sides at considerable length.

[02] The suit is for specific performance of contract and for permanent injunction. Admittedly, vide order below Exh.63 dt.06.06.2020 the plaintiff was directed to co-operate and not to interfere in measurement proceeding conducted by the office bearer of Deputy Superintendent of Land Record, Umred regarding the suit field. Vide said order plaintiff was permitted to give his written submission to the Cadestral Surveyor about his contention regarding the measurement.

[03] Further it is admitted position on record that after passing of an order below Exh.63 the defendant had applied to the Deputy Superintendent of Land Record Umred for measurement of the land as per measurement case no.19/2020. Admittedly, as per

prayer made by defendant the measurement is seems to be carried out and the measurement map regarding the same is seems to be prepared as per report Exh.73.

[04] Further on perusal of record it seems that without getting any order from competent revenue court regarding Sub-Division and the measurement of पोट हिस्सा the defendant by taking the help of this court's order below Exh.63 dt.16.06.2020 had applied to Deputy Superintendent of Land Record for effecting कोर्ट वाटप मोजणी on 24.09.2020. After receiving the notice dt.29.09.2020 about कोर्ट वाटप मोजणी the counsel for plaintiff had approached this court with the submission that the defendant is trying to misuse the liberty given vide order below Exh.63 dt.16.06.2020. Considering the submission made by counsel for defendant the office bearers of Deputy Superintendent of Land Record, Umred were informed that this court has not passed any order for effecting कोर्ट वाटप मोजणी or Sub-Division of the land.

[05] By way of this application, it has been contended by defendant that as per notice dt.19.10.2020 the Shirastedar of the Deputy Superintendent of Land Record, Umred, Dist. Nagpur has cancelled the कोर्ट वाटप मोजणी. It has been contended that the decision taken by measurer/Shirastedar is surprising for the defendant. Thus, defendant submitted for issuance of show cause notice.

[06] Here in case at hand, admittedly the office bearers of Deputy Superintendent of Land Record, Umred are not party to the proceeding. Moreover, admittedly this court has not appoint the office bearers of land record Umred as a court commissioner for carrying out the measurement of suit field. Again, admittedly neither defendant nor plaintiff had applied to competent revenue authority for any कोर्ट वाटप मोजणी i.e. for Sub-Division or measurement of पोट हिस्सा.

[07] As discussed above the suit is for specific performance of contract. The suit is old one of the year 2015. The issues are seems to be framed in the year 2017. Since long the suit is pending for part-heard evidence. The defendant instead of defending the suit is trying to prolong the same on the pretext of measurement of the land. Moreover, as discussed above without getting any order for कोर्ट वाटप मोजणी from competent revenue court the defendant is intending to get his field sub divided from the office bearers of the Deputy Superintendent of Land Record, Umred.

[08] For issuance of show cause notice there should be the sufficient material to show that the office bearers of Deputy Superintendent of Land Record, Umred has committed any breach about the order of this court. However, there is nothing on record to show that there is the breach of any order. Moreover, the notice dt.19.10.2020 is seems to be a correct as well as proper one. Without

obtaining any order about कोर्ट वाटप मोजणी from competent revenue authority the defendant cannot compel the office bearers of Deputy Superintendent of Land Record, Umred for effecting the Sub-Division. Hence, in view of discussion given supra I am not inclined to allow this application for issuance of show cause notice to Smt. V. A. Naik (Shirastedar), deputed at Deputy Superintendent of Land Record, Umred, Dist. Nagpur. Accordingly, I proceed to pass the following order.

ORDER

[01] The application (Exh.76) shall stand rejected.

[02] Costs in cause.

Umrer.
Date : 06/04/2021

(S. K. Fokmare)
Civil Judge Senior Division, Umrer.

Certificate

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

Name of Stenographer : **Mr. Mahendranath D. Nagpure.
Stenographer (Grade III)**

Court Name : Civil Judge Senior Division, Umrer

Order checked and signed on : 06/04/2021.

/home/ubuntu/1-C.J.S.D./ORDERS/1-ORDER BELOW EXH.1/2-SPL. CIVIL SUITS/