

ORDER BELOW EXH. 16

Vasant V/s Bharat and others

Read the application and say filed by plaintiff. Perused record. Heard both the Counsels.

2] This is a suit for injunction. Wherein application for rejection of Exh. 5 is filed. It is submitted on behalf of defendant No. 1 that, the suit is filed seeking injunction that, defendant No. 1 be directed not to erect the angles and plantation of grapes garden, near by land Block No. 121 adjacent to the land of plaintiff. Defendant No. 1 has cultivated grapes garden and already erected the angles for that purpose and therefore application became infructuous and deserves to be rejected, without going into merit of the case.

3] Plaintiff resisted the application on the ground that, application for appointment of Court Commissioner is pending and therefore, without having factual position on record, application cannot be said to be infructuous and prayed to reject the application.

4] Perusal of record shows that, the application filed on behalf of plaintiff for appointment of Court Commissioner is decided. Accordingly, T.I.L.R. was appointed as a Court Commissioner. Measurement is done and map is also filed on record. Had it been so, but, filing of map and report of T.I.L.R. cannot be a ground for rejection of Exh. 5. Without hearing the same on merit. Hence, I find no substance in

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(CNR No.MHNS13-000412-2017)

the application and in result following order is passed.

ORDER

- 1] Application Exh. 16 stands rejected.

Sd/-xxx
(Vijay C. Gawai)
Civil Judge Junior Division,
Pimpalgaon (B.), Tal. Niphad,
Dist. Nashik.

Date : 09/01/2019