

Order below Exhibit 8

1. This application is for appointment of Court Commissioner for spot inspection. It is averred that defendants applied to revenue authorities in respect of alleged obstruction by plaintiffs in road on common boundary of Gat No.477. The revenue authorities gave decision in favour of defendants. However, there is no road in existence as per demand of defendants. The road as shown by plaintiff was not noted down by Tahasildar. In fact, defendants have road for Gat No.488/2 from west from Katarni-Talegaon road by north-south stream by turning towards south. The dispute still remains. In order to attain finality to the road dispute, appointment of commissioner is necessary so that factual position comes on record.

2. Defendant's reply is vide Exh.20. Application is opposed. It is claimed that plaintiffs are trying to collect evidence. The spot inspection carried out by Tahasildar in revenue case is proper. There is no need to appoint new commissioner. Application may be rejected.

FINDINGS :-

3. Heard rival counsels. Plaintiff's written-argument is vide Exh.23. Perused record.

4. Admittedly, two decisions of revenue authorities are in defendants favour. Those decisions are filed on

(2) R.C.S.No. 107/2016, Exh. 8

record. The fact that suit is filed and application is moved shows that the dispute still continues between the parties. There is spot inspection report of Tahasildar. Another independent spot inspection will not harm anybody. On the contrary, if, the new report corroborates with Tahasildar dispute will end then and there. In case, there is variance between report, both parties shall have right to present their respective case so, as to attain final determination of dispute. Appointment of Commissioner does not mean that Tahasildar's earlier report will be it ipso-facto thrown out of the window. It will remain part of the record for comparison, appreciation and determination of the dispute once, and for all. Accordingly, following order is passed,

ORDER

Application is allowed in the following terms-

- a) Dy. Supdt., Land Records, Yeola is hereby appointed as Court Commissioner.
- b) Dy. Supdt., shall carry out the inspection as regards averment in the application. He shall follow due procedure of law and submit report along with detail map within thirty days.
- c) Plaintiffs are directed to pay necessary fees in concerned office.
- d) Issue commissioner warrant, copy of Exh.8, plaint.

**Yeola, Dist.Nashik,
Date : 04/01/2017**

**(Sau. A.R. Rahane)
Civil Judge, J.D., Yeola.**