

Order below Exh.24 in R.C.S. No.13/2016
(Bhimaji Vs. Madhukar and Ors.)

Read the application and say filed on it. Heard the learned counsel for both side. The plaintiff filed the suit for permanent injunction to restrain construction in his share of land of survey No.929(1272)2+3+4+8+9+10 by the defendants, and alternative relief of mandatory injunction for removal of encroachment if any. Therefore, the plaintiff sought the appointment of court commissioner to measure the suit land and to ascertain encroachment if any in it through cadastral surveyor. The learned counsel for the defence denied that, the defendants did encroach upon the suit land owned and possessed by the plaintiff. However, according to him, the defendants do not have any objection for measurement of the suit land through cadastral surveyor to resolve the dispute effectively and finally. According to him, the certain land of the suit block has been acquired for Nashik highway, and the said area requires to be measured during the measurement to reveal true picture. Hence, in view of the plaintiff's allegation as to encroachment in the suit land by the defendants, and defendants' no objection for having measurement through cadastral surveyor, it would be just to allow the measurement of the suit land through cadastral surveyor to resolve the dispute effectively and finally. It would not anyway amount to collection of evidence as the evidence of the fact of encroachment could be ascertain through cadastral measurement. Hence, the application is liable to be allowed, and accordingly, I pass the following order,

ORDER

1.The application is allowed.

2.The Deputy Superintendent of Land Record, Sinnar is directed to measure the entire land of Survey No.929(1272)2+3+4+8+9+10 within the limits of Sinnar including land acquired therein for highway, and submit report as to encroachment if any within two months of the receipt of the order.

3.The plaintiff shall bear the requisite charges of the measurement. He shall directly deposit the said charges in the officer of Deputy Superintendent of Land Record, Sinnar within 15 days of the receipt of the order by the office of Deputy Superintendent of Land Record and produce receipt thereof.

4.Intimate the concerned accordingly.

Sd/-xxx

Date : 09.01.2024.

(M. M. Gadiya)
Civil Judge S.D., Sinnar.