

ORDER PASSED BELOW EXH. 18 IN REG.CIVIL SUIT NO. 651/2021.**CNR No. MHOS09-001728-2021.*****Sahebrao Gaikwad.******Vs.******Chagan Gaikwad & Ors.***

1) Plaintiff has filed this application under Order XXVI Rule 9 of Civil Procedure Code. for appointment Cadastral Surveyor through Deputy Superintendent of Land Record (DY.S.L.R.), Kallam as Court Commissioner for measurement of plaintiff and defendants land out of Gat No. 268 and 311 within the jurisdiction of Soundana(Amba), Tq. Kallam, Dist-Osmanabad (hereinafter referred to as 'suit land' in short).

2) Contents of this application, in nut-shell, are as follows -

Plaintiff has filed the present suit for measurement and demarcation and fixation of boundaries in respect of the suit land. Defendant No. 1 to 10 have filed their consent written statement. According to the plaintiff, the suit land needs to be measured by Dy.S.L.R., Kallam through Cadastral Surveyor. Plaintiff has, however, stated that plaintiff and defendants are ready & willing to pay requisite charges of the Court Commissioner. With this, he has prayed that Dy.S.L.R. Kallam be directed to appoint Cadastral Surveyor as Court Commissioner for measurement of the suit land. Hence, this application.

3) Defendants have given no objection to application.

4) I have heard Ld. Advocate Mr. V.V.Kawade for the plaintiff and Ld. Advocate Mr. A.S.Patil for defendants at quite length, and have gone through record of the suit.

5) It is seen that defendants' lands are situated adjacent to the suit land. Plaintiff contended that defendants have made encroachment over the suit property. Hence, in order to resolve the boundary dispute between plaintiff & defendants, I am of the view that the appointment of Cadastral Surveyor through Dy. S.L.R., Kallam as Court Commissioner is necessary to elucidate the matter of encroachment, if any. Therefore, the suit land needs to be measured. Holding so, I proceed to pass the following order-

ORDER

1. Application Exh. 18 is allowed.

2. Deputy superintendent of land record, Kallam is hereby directed to appoint Cadastral Surveyor as Court Commissioner for measurement of the plaintiff and defendants land out of Gat No. 268 & 311 within the jurisdiction of Soundana(Amba), Tq. Kallam, Dist- Osmanabad.
3. Cadastral Surveyor is hereby directed to issue notices to parties to the suit directing them to remain present at the time of measurement and however, he shall measure the plaintiff and defendant's land out of Gat No. 268 & 311 within the jurisdiction of Soundana(Amba), Tq. Kallam, Dist- Osmanabad, and thereafter, he shall submit his report along with measurement-map, showing therein an encroachment, if any, within 2 months from date of this order.
4. The plaintiff and defendants shall deposit the charges of Court Commissioner/Cadastral Surveyor of their respective area within 15 days from this order in the offic of Dy.S.L.R. Kallam, in respect of the measurement of their land.
5. On compliance of the condition in clause-4 plaintiff shall report the matter to the court alongwith xerox copy of the payment receipt so that immediately writ be issued.
6. Failure to comply the clause No. 4 the order shall stands vacated.
7. On compliance of clause No.4 the concern clerk shall issue court commissioner writ alongwith necessary documents to court commissioner.
8. Issue letter to Dy.S.L.R., Kallam accordingly.

Sd/-

Kallam.
Date- 25/08/2021.

(M.D.Thombare),
Civil Judge, Jr.Dn., Kallam.

CERTIFICATE

I affirm that, the contents of this P.D.F. file judgment are same, word to word, as per the original judgment.

Name of Stenographer	---	A.M.Wagh
Court	---	C.J.J.D. & J.M.F.C. Kallam
Date	---	25/08/2021
Order signed by the Presiding officer on	--	25/08/2021
Order uploaded on	—	26/08/2021