



R.C.S. No.171/2023
Chandrakant/
Hakim & other

ORDER PASSED BELOW EXH.24

This is an application moved by plaintiff for appointment of Court Commissioner as per Order XXVI Rule 9 of Code of Civil Procedure.

02. The plaintiff has filed the suit for the relief of declaration of ownership and for the possession of encroached portion land in Gut No.240 situated at Mouje Tambewadi, Tal. Bhoom. The plaintiff is the owner of 1H-30R land in Gut No.240. Defendant No.1 possess his land in Gut No.241 situated at western side of Gut No.240. Defendant No.2 also owned land in Gut No.240. There is a dispute between plaintiff and defendant in respect of boundaries of the land. The plaintiff alleged that defendants encroached on the suit property. Previously the land was measured vide M.R. No.992/2020 by Supdt. of Land records. However, the exact area of the encroached portion is not shown in the map. Hence, in this background, the plaintiff prayed for appointment of Court Commissioner to measure suit property.

03. Defendant No.1 and 2 contested the application contending that, already the measurement is carried, prior to filing of the suit. The plaintiff is trying to collect evidence by appointing the Court Commissioner. Hence, they prayed for rejection of the application.

04. Heard both sides. Perused the record. The plaintiff by filing this suit sought for the relief of declaration of ownership and possession of the alleged encroached portion of his land.

05. In cases like recovery of encroached portion the appointment of commissioner for the measurement of land is essential. In such controversy in my opinion local investigation is a best way to find out the exact portion of the encroachment. Considering the peculiar nature of the case in hand, the evidence, can be obtained only by making local investigation. It will assist the parties in prosecution of their case. Therefore, in my opinion the local investigation is proper and requisite for the purpose of elucidating the matter in dispute as regards to the fact of encroachment. Considering the boundary disputes it would be appropriate to measure entire land Gut No.240 and 241 situated at Mouje Tambewadi, Tal. Bhoom in order to ascertain the accurate portion of encroachment. Hence, the following order is made.

O R D E R

1. Application is allowed.
2. The TILR, Bhoom is hereby appointed as a Court Commissioner to measure the land in Gut No.240 & 241 situated at Mouje Tambewadi, Tal. Bhoom, Dist. Osmanabad and to fix the boundaries of the suit properties.
3. Plaintiff shall pay the Court Commissioner fees as per rules.
4. Commissioner is directed to make local investigation within 30 days from the date of communication of the order.
5. Issue Commission writ accordingly to the Court Commissioner of P.F.

(Smt. S.J.Patil)

Date:- 13.03.2024

Jt. Civil Judge Jr. Div., Bhoom

CERTIFICATE

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

Name of Stenographer	:	N. V. Koli Stenographer Grade-3
Name of Court	:	Jt. Civil Court J.D., Bhoom Tal. Bhoom Dist. Osmanabad.
Order date	:	13.03.2024
Order signed by the Presiding Officer on	:	13.03.2024
Order uploaded on	:	15.03.2024