

CNR No.MHPA170005582020

RCS No.80/2020
Sandip Vrs.Waman
and others

ORDER PASSED BELOW EXH.23

01. This is an application filed by plaintiff under Order XXVI Rule 9 of the Code of Civil Procedure.

02. I have perused the application and heard learned advocate Mr.D.r.Shelke for the plaintiff and learned advocate Mr.V.G.Rathod for the defendant. Th learned advocate for the plaintiff has submitted that, the plaintiff and defendant no.1 to 3 are residing at Sonapur Tanda, Tq.Jintur, Dist.Parbhani. Their fields are adjacent to each other. Therefore, the plaintiff has brought this suit for declaration of ownership and demarcation of the boundary marks. The defendants have appeared in this suit. But, they have not filed their written statements. The plaintiff has property situated at Gat no.6 having area 0H-43R bounded as to the East-Field of Dilip Shishode, to the West-Field of defendant no.3, to the South-Field of Vinayak Gopichand Chavan and to the North-Field of Sudam Rama Rathod. The above property has situated at village Sos Tanda, Tq.Jintur, Dist.Parbhani.

03. The plaintiff has further submitted that, one Jumla Ananda Rathod was owner of Field survey no.51/3(Gat No.6). He was grand father of the plaintiff. He had sold the property situated in Gat No.6 to the defendant no.1 to 3 and Ganesh Bhausingh Jadhav. Out of it the plaintiff had purchased 0H-83R for the cultivation. The defendant has also purchased 0H-80R land from said Gat number. The plaintiff had sold 0H-40R to defendant no.3 on 17/11/2018. Therefore, the

remaining land is OH-43R land of the plaintiff. The plaintiff is owner of said OH-43R land. The defendant no.1 to 3 are trying to make encroachment over the property of the plaintiff. Therefore, there is less area of the plaintiff. The defendants are trying to grab the property of the plaintiff. Therefore, it is necessary to appoint Court commissioner for measurement of the property and demarcation of the boundary marks.

04. The defendants have filed their say and stated that, the application of the plaintiff is false and bogus. The plaintiff is not owner as shown in the plaint. The plaintiff is not possession of the OH-43R land. The defendants have never tried to make encroachment over the suit property. The application of the plaintiff has no substance. Hence, it is liable to be rejected.

05. After hearing I have gone through the record of the suit and legal provision of Order XXVI Rule 9 of the Code of Civil Procedure. It appears that, the plaintiff has brought this suit for permanent injunction and demarcation of the boundary marks of the suit property. It also appears to the Court from the record that, the order of no written statement is set aside vide order dated 14/11/2021 subject to cost of Rs.300/-. It also appears that, the defendants have not paid the costs. Thereafter, the Court has gone through the Order XXVI Rule 9 of the Code of Civil Procedure. It appears to the Court that, local inspection of the suit property is just and proper in this suit through T.I.L.R. Hence, I proceed to pass the following order.

ORDER

01. The application below Exh.23 is allowed.

02. The T.I.L.R.Jintur is appointed as a Court commissioner for conducting the measurement and demarcation of the boundary marks of property of the plaintiff 00H-43R in Gat no.6 situated at village Sos Tanda, Tq.Jintur having total area 2H-43R along with the four boundaries i.e. to the East-Field of Dilip Shishode, to the West-Field of defendant no.3, to the South-Field of Vinayak Gopichand Chavan and to the North-Field of Sudam Rama Rathod.

03. The plaintiff is directed to pay the commissioner fee in the office of the T.I.L.R. as per the rules given thereunder.

04. The T.I.L.R. is directed that after receipt of the payment he shall conduct the measurement and demarcation of the boundary marks of property of the plaintiff 00H-43R in Gat no.6 situated at village Sos Tanda, Tq.Jintur having total area 2H-43R along with the four boundaries i.e. to the East-Field of Dilip Shishode, to the West-Field of defendant no.3, to the South-Field of Vinayak Gopichand Chavan and to the North-Field of Sudam Rama Rathod and submit his report along with map to this Court as early as possible.

05. The T.I.L.R. is directed to fix the boundary marks of the suit property.

06. The plaintiff along with his learned advocate shall appear before the Court commissioner T.I.L.R. and co-operate him while conducting the measurement.

07. The T.I.L.R. is directed that if the defendants appeared along with their advocate at the time of the measurement, allow them to remain present at the time of the measurement.

08. The plaintiff and his advocate is directed to furnish the copies of the relevant documents to the

T.I.L.R. for measurement purpose.

09. Issue writ accordingly to the Court
commissioner T.I.L.R.Jintur,Tq.Jintur,Dist.Parbhani.



Date:-11/08/2022

Civil Judge (J.D.)
Jintur