

MHPU240003382009



Order Passed Below Exh. 42
Dhanaji Bharmal Vs. Dnyaneshwar Bharmal & ors.

This is an application filed by the plaintiff for re-measurement of survey no. 334 of the plaintiff and land of defendants. The present application proceed without say of defendant as per the order dated 03.08.2024. Heard the Ld. Advocate for the plaintiff.

2. It is the contention of the plaintiff that, present suit is filed for the relief of measurement and demarcation of the suit property as well as for perpetual injunction. It is contended that, the T.I.L.R. has given wrong report that, the plaintiff had not shown occupancy in survey no. 334 whereby the same is not shown in the map. Plaintiff contended that, he was present at the time of measurement. There is sign of plaintiff and defendant over statement and in-spite of that wrong report is submitted on record.

3. Perused the report of T.I.L.R. Also, perused the order dated 22.04.2015 passed by my Ld. Predecessor. In view of said order the T.I.L.R. has not followed the directions of my Ld. Predecessor. The re-measurement will be helpful to decide the real dispute between the parties to the suit. Considering all the above facts and considering the nature of suit it is clear that, there is a dispute between the parties regarding the fixation of boundaries of their respective lands. To decide this dispute, it is necessary to appoint Court Commissioner to carry out joint re-measurement of the suit properties.

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4. Order XXVI Rule 9 of the Code of Civil Procedure provides that, for the purpose of elucidating any matter in dispute, the Court may issue a commission to such person as it thinks fit directing him to make such investigation and to report thereon to the Court.

5. After perusal of this application and considering the nature of suit, it appears that, to resolve the dispute between the parties, it is just and proper to appoint T.I.L.R., Ambegaon, as a Court Commissioner to get joint re-measurement as per the order dated 22.04.2015 of my Ld. Predecessor passed below Exh. 34. Accordingly, following order is passed,

ORDER

- 1] Application (Exh. 42) is allowed.
- 2] T. I. L. R. Ambegaon, is hereby appointed as a Court Commissioner and he is directed to get joint re-measurement as per the order dated 22.04.2015 of my Ld. Predecessor passed below Exh. 34 and shall submit the report within three months.
- 3] The plaintiff is directed to deposit the commission fee in the office of T.I.L.R. Ambegaon, Dist. Pune.
- 4] Issue commission writ accordingly.
- 5] Copy of Exh. 01, the order dated 22.04.2015 of my Ld. Predecessor passed below Exh. 34 and this application be attached with commission writ.
- 6] Parties to take note.

Sd/-

(Smt. S. N. Hurgat)

Civil Judge Junior Division,
Ghodegaon, Tal. Ambegaon, Dist. Pune.

Date : 16/11/2024