

MHRG080001172012



Shri. Bharat Brajlal Shaha
vs.
Shri. Pruthviraj Nanikram Kisanani & ors

ORDER BELOW EXHIBIT NO.50 IN
REG. CIVIL SUIT NO.150/2012

This is the application filed by the plaintiff under order 18 rule 3-A of The Code Of Civil Procedure to allow him to examine first court commissioner as witness before examination of other witnesses. According to plaintiff present suit is filed for removal of encroachment. As matter is concerning to boundary dispute commissioner was appointed to measure suit property and to file it's report. Accordingly court commissioner has filed it's report at Exh. 29. Therefore, before examining plaintiff, it is necessary to examine first commissioner as witness of plaintiff. Hence, he prayed to allow the application.

02. On the contrary defendants objected instant application. According the them, plaintiff has not given the name of proposed witness and therefore, they prayed to reject the application.

03. I have heard Ld. Advocates for both the parties at length. This is the suit for removal of encroachment alleged to be made by defendants raising construction on suit property. This aspect is not denied by the defendants in their say. Most important evidence in this suit is the evidence of commissioner, rather than other witnesses because he is able to state whether there is actually encroachment or not ?. Therefore, I am of the view that, it is just and proper to allow plaintiff to examine court commissioner first, before examination of

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other witnesses. No prejudice will be caused to the defendant if plaintiff is allowed to examine court commissioner first. Hence, I proceed to pass following order.

-: ORDER :-

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| 01. | Application (Exhibit No.50) is allowed. |
| 02. | The Plaintiff is permitted to examine court commissioner first before examination of other witnesses. |

(Dictated and pronounced in open Court)

Khalapur.
Date: 15/12/2022.

(P.M.Mane)
Jt. Civil Judge, Junior Division,
Khalapur.