

CNR No. MHRG080011742023 	<u>R.C.S. No. 53/2023</u> Mahendra Hanumant Hadap Vs. Janardan Bapu Hadap
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ORDER BELOW EXH. 18

This is an application filed by plaintiff for appointment of Court Commissioner under Order 26 Rule 9 of Code of Civil Procedure, 1908.

2. Heard learned advocates of both the parties. Perused the application and say filed below Exh. 19.

3. According to plaintiff the suit property situated at Navandhe village, Tal. Khalapur, Dist. Raigad, gat no. 156 admeasuring 0-44-30+pot kharab 0-15-70 out of land admeasuring 0-84-30+potkharab 0-15-7. The suit property is owned and possessed by plaintiffs from 1994. But defendants created encroachment by construction over the suit property. In spite of repeated instructions defendants continued their construction. Therefore present suit is filed for declaration and for removal of encroachment and possession thereof. However, present dispute is boundary dispute and it cannot be resolved unless and until measurement carried out in the suit property.

4. Ld. Advocate for the defendant filed say below Exh.19 contending that, this application is filed to prolong the matter. With the purpose of harassment of defendants it is filed. It should be rejected with cost.

5. Considering the nature of suit it appears that boundary dispute is the main cause behind this suit. It can not be resolved without demarcation and measurement. As per the provision of o.26 R.9 of the C.P C court commissioner may be appointed in boundary dispute. Which is necessary for final adjudication of the suit. Therefore I pass following order :-

:: ORDER ::

- 1) Application is allowed.
- 2) T.I.L.R., Khalapur is appointed as Court Commissioner and he is directed to measure the suit property situated at Navandhe village, Tal. Khalapur, Dist. Raigad, gat no. 156 admeasuring 0-44-30+pot kharab 0-15-70 out of land admeasuring 0-84-30+potkharab 0-15-7. Tal. Khalapur. He should measure encroached portion over the suit property.
- 3) After measurement Court Commissioner to file report along with map showing actual position over suit property of land acquired by defendants as mentioned above.

- 4) Plaintiff to bear expenses of measurement and comply accordingly.
- 5) After due compliance issue commission writ.

Place – Khalapur.
Date – 30/04/2026.

(**Smt. S. S. Deshmukh**)
Civil Judge, J. D., Khalapur.