

MHRG140003842019

Order below Exhibit 30

This is an application under Order 26 Rule 9 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'the C.P.C.').

2. The plaintiff have instituted this suit for the relief of declaration, perpetual injunction and recovery of encroached portion. Subsequently, the plaintiffs moved an application vide Exh.30 praying to appoint Court commissioner for inspection and measurement of land admeasuring 14 Guntha having old survey no.19, new survey no.19/1/B bounded as;

towards east : ponds of Vindhane village and Hanuman temple
towards west : house of Ravindra Shravan Kadu
towards South : Dargah and new premises of Talathi office
towards north : house of Sanjay Shankar Ghag
situated within village Vindhane, Taluka Uran, Dist. Raigad. (this land will be referred as suit property in this order for the sake of brevity.)

3. The plaintiffs are lawful owners and peaceful possessors of the suit property. Initially the defendants constructed a house in 10 x 10 foot area within the suit property, later on they encroached over 33 x 33 foot area in the suit property and started construction. The defendants have no concerned with the suit property, and they have illegally encroached in the suit property. Hence, the plaintiffs prayed for inspection and measurement of the suit property through DyLR Uran to

show actual encroached portion by the defendants.

4. While defendant no.1 his say vide Exh.32 mentioning detailed history and context of the suit property in view of the defendant, he further contended that, father of defendant no.1 namely Sakharam Goma Navali constructed a house in 7 Guntha area out of the suit property in the year 1993, and after completion of construction in the year 1995, Grampanchayat Vindhane allotted house no.959. Sakharam Navali was not residing in that house, hence he gave this house to his son i.e. defendant no.1. The plaintiffs never raised any objection regarding ownership or possession of Sakharam Navali or defendant no.1 in the suit property. Hence the court had also rejected temporary injunction application vide Exh.5 considering no illegal construction by defendant no.1 in the suit property. Hence, prayed to reject this application.

5. Perused the application, say, documents filed on record.

6. Rejection of application for temporary injunction is a different subject matter, as it mainly aims towards protection of possession. But as far as inspection and measurement is concerned, such application shall not be affected by the Order below Temporary Injunction application.

7. Lawful ownership and possession of the parties over the suit property has to be decided after fair opportunity and due procedure of trial. But it does not mean that, a party shall be barred to get the suit property inspected or measured to file substantial piece of evidence before the Court.

8. In order to understand actual ground situation, inspection and measurement by the competent authority is always desirable. Inspection and measurement by a public servant is not going to prejudice to either party to the suit. I do not find any single reason to reject this application. Hence, the order:-

ORDER

- i. Application is allowed.
- ii. DySLR Uran is appointed as Court Commissioner and directed to inspect and measure the suit property, and to prepare such map and report.
- iii. The plaintiffs to deposit Court Commissioner fees in the concerned office on or before 15.12.2025.
- iv. Court Commissioner is directed to submit his report along with map before the Court on or before 31.01.2025.
- v. Costs in cause.

Sd/-

Uran,
Date : 29.11.2025

(M. S. Quazi)
Civil Judge, J.D., Uran