

Order Below Exh.32 in Regular Civil Suit No.8/2016
(CNR. No.MHRT 080000772016)

1. The plaintiff has filed the present application and thereby submitted that the suit is filed for permanent and mandatory injunction. The plaintiff has mentioned in the plaint about appointment of court commissioner for gut no. 338/1. Appointment of court commissioner is essential for fixing boundaries and area of gut no. 338/1. Hence, prayed to allow the application.

2. Defendant has filed say at Exh. 34 and submitted that, the plaintiff has filed the application only for collection of evidence. There is no any dispute regarding boundaries created by ancestors of the plaintiff. The map is also clear regarding boundaries. Hence, prayed to reject the application.

3. I have perused pleadings of the parties. It becomes clear that the main dispute is on point of boundaries. Hence, at this stage to know actual position of suit property it would be proper to allow the application to elucidate the matter in dispute by appointing Court Commissioner. Order 26 Rule 9 makes it clear that, if court deems a local investigation to be proper for the purpose of elucidating any matter in dispute the court may issue commission to such person and direct him to make such investigation and to report thereon to the court. Therefore, it is clear that for appointing the Court commissioner, the purpose of appointing should be for elucidating the matter in dispute. In the circumstances, I pass following order :

-: **ORDER** :-

1. The application is allowed.
2. The T.I.L.R., Deorukh, Tal-Sangmenshwar, District-Ratnagiri is hereby appointed as Court Commissioner.
3. The T.I.L.R., is directed to visit the suit field i.e. S.N.338 H.N.1 at village Kudavali, Tal-Sangmeshwar, Dist.-Ratnagiri after giving notice to both the parties and their advocates regarding the date and time of his visit for commission work and asking them to remain present at the time of commission work.
4. Both the parties directed to appear before the Commissioner accordingly.
5. The Court Commissioner is further directed to submit his report regarding the suit fields along with the map on or before 16.11.2018.
6. The plaintiff is directed to deposit requisite fee in the concerned office and to file the receipts thereof in the Court on or before 24.10.2018
7. Issue commission letter accordingly to the T.I.L.R. Officer.

Date-17.10.2018

**(P.R.Sabnis)
Civil Judge, J.D.,Deorukh**

- : C E R T I F I C A T E : -

Judgment/order in (Order below Exh.32 in R.C.S No. 8/2016)

I affirm that the contents of this Pdf file order are same words as per original order.

Name of Stenographer :- A.A.Shivalkar

Court Name :- The Court of Civil Judge (J.D.) &
Judicial Magistrate F.C., Deorukh

Date of decision :- 17/10/2018

Judgment signed by PO. :- 17/10/2018
on

Judgment uploaded on :- 17/10/2018