

CNR NO. MHSNO40005402012

ORDER BELOW EXH. 65 IN REG. CIVIL APPEAL NO. 107/2012

[Shamrao Patil Vs. Shoukat Mulla etc.]

This is an application filed by respondents for permission to cut and destroy 15 to 20 Babul trees in the suit property. It is the contention of respondents that, they are owners of the suit property. They have purchased the suit property. The suit filed by respondents is decreed. The appellant has filed the appeal and deliberately avoiding to proceed with the appeal. He has not deposited the fees for measurement of the suit property. Due to heavy rain 15 Babul trees in the suit property are collapsed. Therefore, the respondents are unable to cultivate their property. It will take time to decide the appeal. The appellant has filed application below Exh. 5 and accordingly, injunction was granted restraining the respondents from cutting the trees, but the Babul trees in the suit property are naturally collapsed. The appellant will obstruct the respondents to remove the collapsed 15 Babul trees. Therefore, they have filed the application for permission to remove 15 to 20 trees and destroy it.

2. The appellant resisted the application by filing say at Exh. 69. It is the contention of appellant that, the total area of the suit property i.e. land bearing Gat No.953 is 103 R. Out of the total area, 70 R. portion is barren land. The trees are standing on the bank of the stream. Only 30 R. portion out of suit property is cultivable land. There is no obstruction to respondents to cultivate their land.

Two Babul trees standing on the bank of stream are collapsed on the road and two trees are lying on the bank of the stream. Appellant has no objection to remove the said trees in uncultivable portion of the suit property.

3. Perused the application, affidavit and say of the other side. The respondents have filed photographs of the trees along with the list of documents Exh. 68. Heard Ld. Advocates for both the parties. The respondents have contended that, there are 15 to 20 Babul trees which are lying in the suit property, while it is the contention of the appellant that, only 2 Babul trees are lying on the road and 2 Babul trees are lying on the bank of the stream. The respondents have filed 5 photographs of the trees, which are collapsed. In such circumstances, it will be just and necessary to appoint the Court Commissioner for ascertaining the exact position of the collapsed trees in the suit property and the actual number of the Babul trees which are naturally collapsed in the suit property. The Advocate for respondents has no objection for appointment of the Court Commissioner. Therefore, I pass the following order.

Order.

1. Advocate Shri Sandip B. Patil is appointed as Court Commissioner to ascertain the exact position and actual number of Babul trees, which are naturally collapsed in the

suit property i.e. land bearing Gat No. 953 of village Bahe, Taluka Walva, Dist. Sangli.

2. The Court Commissioner is directed to visit the suit property and to prepare the map actually showing the position of Babul trees, which are naturally collapsed in the suit property.
3. The Court Commissioner to issue prior notice to both the parties and their Advocates, complete the commission work and submit his report along with the map, on or before 31/12/2019.
4. The respondents to deposit amount of Rs. 1500/- [rupees fifteen hundred] towards commission fees within four days from today.
5. Issue commission Yadi accordingly.

Sd/xxx
(Jayshri M. Pardeshi)

Date : 20/12/2019

Adhoc District Judge - 1, Islampur

Certificate

I affirm that, the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of Stenographer : A.R.Jamadade [Grade-1]

Court : Adhoc-District Judge-1, Islampur
Date : 20/12/2019
Order signed by the
Presiding Officer : 21/12/2019
Order uploaded on : 21/12/2019

Order below Exh. 1 in Reg. Civil Appeal No. 26/2019

In view of bailiff report [Exh. 9], the respondent Nos. 3,8 to 12 are served with notice on 4/8/2019, in view of bailiff report [Exh.10] the respondent No. 4 is served with notice on 6/8/2019 and in view of bailiff report [Exh.11] respondent No. 5 is also served with notice on 3/8/2019, but said respondents failed to make their appearance. Hence, the appeal to proceed exparte against respondent Nos. 3, 4, 5, and 8 to 12.

(M.M.Patil)

Sangli.
Date : 15/11/2019

Adhoc District Judge - 1, Sangli