

ORDER BELOW EXH.112 IN R.C.S. NO.90/2018

1. Present application is filed for issuance of service of summons to Dy. Superintendent of Land Record calling upon him to adduce and produce evidence.
2. It is submitted that present suit is filed against the order passed in SR/13/2018 Dtd.06/02/2018 for declaration and injunction. The defendant under the garb of said order, tried to create new way from plaintiffs field and it was obstruction and annoyance to plaintiff. In fact no road ever existed from plaintiffs field. Therefore to bring real facts on record the joint map of Gat No.1054, 1059 to 1066, 1373 and 1379 needs to be proved. Thus to prove the map competent authority is custodian of map i.e. Deputy Superintendent of Land Record, Office, Islampur important witness. Thus prayed to allow the application.
3. The defendant strongly objected the application. It is submitted that the application is filed to prolong the matter. The plaintiff had not averred the necessity to examine proposed witness. In fact the plaintiff is not entitle to seek issuance of summons to witness, for want of list of witness. With the submission prayed to reject the application.
4. Heard both sides. Peruse the record.
5. The present suit is filed against the order of Tahsildar in respect of road awarded in favour of defendant. The plaintiff come with theory that no road was ever existed and Tahsildar has no authority to pass order to remove encroachment to use the road, in

fact which is not in existence. Thus he prayed for declaration and injunction.

6. Already plaintiff examined witnesses to support his case. Now to prove the fact that no road was ever existed. Besides oral evidence, documentary evidence which is available plaintiff to bring it on record. In such circumstances to prove those facts, map required to proved and to prove the map competent authority i.e. authorized person from office of survey of land record is best witness.

7. The evidence of said witness would certainly facilitated to adjudicate the fact in issue at finality. Furthermore it would not term as attempt to collect evidence through court. The plaintiff satisfactorily shown necessity and nexus to examine proposed witness. Therefore merely plaintiff had not filed list of witness it would not proper to deprive him from adducing evidence. Hence application needs to allowed. Accordingly following order.

ORDER

1. Application is allowed.

2. Issue summons to Deputy Superintendent, Land Record, Walwa-Islampur, c/o. Central building, Peth road, Islampur, Tal. Walwa, Dist. Sangli on depositing requisite Bhatta.

3. The witness is directed to bring joint survey map of Gat No. 1054, 1059 to 1066, 1373 and 1379

4. No order as to costs.

Islampur
Date :-13/03/2024

(Mukul M. Chitale)
Jt. Civil Judge Senior Division, Islampur

CERTIFICATE

“ I affirm that the contents of this PDF file order are the same, word to word, as per the original order.

Name of the Steno with Post	: Shri. S. K. Patil (Stenographer Grade-II)
Name of the Court	: Jt. Civil Court Senior Division Islampur.
Date of pronouncement of order	: 13/03/2024
Order signed by the P.O.on	: 15/03/2024