

ORDER BELOW EXH. NO. 41

By this application the plaintiff prayed for appointment of commissioner for joint measurement of the suit property, block No.716, and Patkuroli to Pehe (Narsinghwadi) road and fixation of boundaries.

2. The suit is for perpetual injunction and the application for temporary injunction is pending. It is plaintiff's case that, there is Patkuroli to Pehe (Narsinghwadi) road at the East side of the suit property. According to the plaintiff he is residing at his constructed house since last 15 to 20 years. His house is constructed by bricks and tin roof. He is depositing taxes of his house regularly. At the time of making construction he kept 10 feet distance from the road. There is land block No.716/2 of defendant Nos. 6 to 8 at the East side of the road. The work of strengthening of the road has been done in 2018-2019. After that work defendant Nos. 6 to 8 dug the road with the help of J.C.B. and merged that portion in their landed property block No.716/2. The plaintiff has never made any encroachment on the road. Hence, the application.

3. Defendant Nos.2, 3 and 5 objected the application by saying that the place of the road has already been confirmed after measurement vide measurement registered No.5460/20 through T.I.L.R. Pandharpur by fixation of boundaries. Wherein he reveals that, the plaintiffs construction is in the boundary of the road. The plaintiff has not taken objection to that measurement

and this application has been filed only to delay the proceeding. Hence, they prayed for rejection of the application.

4. Defendant Nos. 6 to 8 objected the application by saying that on 26.10.2020 joint measurement has been done vide measurement registered No.5460/20, 5461/20, 5480/20. According on 03.11.2020 boundaries has been fixed. The application has been filed only to delay the development of public road.

5. Heard both the sides, gone through the pleadings of the parties it appears that, there is dispute between parties about the exact area of their land and exact area of the road. Previously on the application of owner of block No.718 measurement has been done. Though the map of measurement regarding the road, block No.716 and 718 is on record, it is plaintiffs objection that he was not present for that measurement as he has not having any notice for the same. This shows that plaintiff could not get opportunity to show his boundaries and cultivation. There is dispute between parties regarding encroachment to decide controversy parties finally and effectively, it would just and proper to get the joint measurement of the lands from the Superintendent of Land Record. I therefore, allow the application and in the interest of justice pass the following order :-

ORDER

1. The Superintendent of Land record is hereby appointed as the court commissioner to measure jointly lands, the suit property, block No.716 and Patkuroli to Pehe (Narsinghwadi) road.

R.C.S.No.91/2021.

I.A.No.2/2022

2. Plaintiff is directed to pay necessary expenses for the measurement forthwith and always remain present for the early action related to the measurement without fail.

3. The Superintendent of Land record to measure all aforesaid lands at the earliest and submit the report till 21/02/2022.

Sd/-

Date : 08/02/2022

(Archana Shripat Nalge)
2nd Jt. Civil Judge S. D., Pandharpur

C E R T I F I C A T E

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment.

a Name of the Stenographer : Shirsikar V.G.
b Court : 2nd Jt. Civil Judge S.D.Pandharpur
c Date of Judgment : 08/02/2022
d Judgment signed by P.O. On : 08/02/2022
e Judgment uploaded on : 08/02/2022