

**Regular Civil Suit No.290/2023  
CNR Number MHSO-07-000350-2023**

1. Limbunath Anna Kathavate ..... Plaintiff

Versus

1. Namdeo Dasharath Shinde ..... Defendants

**ORDER BELOW EXHIBIT 36**

1. The suit is for perpetual injunction. The plaintiff has filed the application for appointment of Deputy Superintendent Land Record as a court commissioner for local inspection of suit property described in paragraph number 1 of suit and land bearing block no.726 of village- Palashi, Taluka- Pandharpur, vide exhibit 36. It is stated that, the defendants are obstructing the possession of plaintiff.

The defendants are trying to destroy dyke (बांध). Hence, the plaintiff is constrained to file present application for appointment of court commissioner.

2. The defendants have filed say vide exhibit 41 and stated that, the application is false and vexatious. The plaintiff has instituted false cases against defendants. The plaintiff is trying to collect evidence. Hence, application is to be rejected.

3. I have heard both sides at length. Upon hearing of both sides, the following points arise for my consideration.

Sr No.	Points	Findings
1	Does plaintiff entitle for appointment of Deputy Superintendent land record, Pandharpur, as court commissioner for the purpose of local inspection of suit property described in paragraph number 1 of suit and land bearing block no.726 ?	In the negative
2	What is order ?	The application is rejected.

### REASONS

4. The point numbers 1 & 2 are interlinked with each other. Hence I have clubbed them together and discussed accordingly. The plaintiff has filed the application vide exhibit 36. The defendants have filed say vide exhibit 41 and prayed that application is to be rejected.

5. I have perused section 75 of Code of civil procedure. It reveals that, court commissioner can be issued for local investigation. I have also perused Order 26 Rule 9 of Code of civil procedure. It reveals that in suit, in which Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, the court may issue commission for investigation.

6. In present suit, the application vide exhibit 36 is for appointment of court commissioner. On minute perusal of

application vide exhibit 36, it reveals that, the plaintiff wants to find out boundaries of suit property described in paragraph number 1 of suit. The suit is for perpetual injunction. The boundaries of suit property described in paragraph number 1 of suit is not point of dispute. It does not involve local investigation of suit property described in paragraph number 1 of suit for the purpose of elucidating matter in dispute. The court commissioner cannot be appointed for preparing report as per prayer of plaintiff. It is not at all necessary to appoint Deputy Superintendent Land Record, Pandharpur for elucidating the matter in dispute. The suit is for perpetual injunction. The plaintiff cannot take aid of Deputy Superintendent Land Record as court commissioner for collecting evidence. The burden of proof is on plaintiff to prove his case. In such circumstances, the application is not maintainable in eyes of law. In the result, the following order is passed.

**ORDER**

The application vide exhibit 36 is rejected.

Pandharpur.  
Date -02-01-2026.

**Smt. K. A. Katkar**  
3rd Joint C.J.J.D.,Pandharpur.

**:-CERTIFICATE:-**

I affirm that, the contents of this pdf file order are same,  
word for word as per original order.

Case No.	:-	R.C.S. No. 290/2023
Name of Stenographer	:-	S. P. Doke
Court Name	:-	Smt. K.A.Katkar, Jt. Civil Judge, J.D.& J.M.F.C, Shrigonda.
Date of Decision	:-	02-01-2023
Order signed by P.O. on	:-	02-01-2023
Order uploaded on	:-	02-01-2023