

**ORDER BELOW EXHIBIT 44 IN REGULAR CIVIL SUIT NO. 319/2018**

This is the suit for perpetual injunction. Through this application by virtue of order XXVI Rule 9 of Civil Procedure Code the plaintiff has prayed to issue commission to get an expert opinion with regard to the boundaries of suit properties.

**2]** Perused the application and say filed by the defendant no.1. Heard the learned advocate at length. Upon perusal of the record the plaintiff seek the commission to bring on record an expert opinion of the boundaries of the suit property also stating that the defendant has disturbed the smooth working of the previous TILR in previous suit No. 304/2012 and he has given specific boundaries alongwith the same, which will be helpful for just decision of the Suit. On the other hand the defendant argued that present application is not tenable at this stage. Hence prayed for rejection of the application.

**3]** Having heard both the rival submissions and on perusal of plaint, written statement and the documents filed on record, I am to state that, the suit is at evidence stage and the suit is for simple perpetual injunction. It is necessary to look into the legal provisions of **Order 26 Rule 9 i.e. Commissions to make local investigation**. In any suit in which the court deems a local investigation to be requisite or proper for the purpose of elucidating any matter any dispute, or of ascertaining the market value or the amount of any mesne profit or damages or annual net profits, the court may issue a commission to

**such person.** In the present case in hand, the issue is with regard to the defendant allegedly disturbing plaintiff's possession. Plaintiff is not coming up with the case of encroachment. Boundaries are clearly given in para 1 of the plaint. The documents which plaintiff is willing to collect vide commission is the document which the plaintiff ought to have filed at the stage of filing of the suit itself. From the provision it can be gathered that appointment of court commissioner can be for carrying out local investigation for the purpose of gaining clarity upon any matter. There is specific description with regard to the boundaries, then for what purpose commission required is not clear. The commission should not be observed by the plaintiff as it is for collection of evidence to support his case. Hence, I reckon to pass following order.

**ORDER**

1. Application is rejected.
2. No order as to costs.
3. Plaintiff to lead evidence at earliest.

Date:- 03/11/2025.

(K.J. Khomane)  
2<sup>nd</sup> Jt. Civil Judge Junior Division,  
Pandharpur, Dist. Solapur.

**CERTIFICATE**

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

Name of the Stenographer	-	A.B. Sandrok
Court	-	2 <sup>nd</sup> Jt. CJD & JMFC, Pandharpur.
Date of Judgment/Order	-	03.11.2025
Judgment/Order signed by the Presiding Officer on	-	03.11.2025
Judgment/Order uploaded on	-	03.11.2025