



**Regular Civil Suit No.576/2023
CNR -MH-SO-07-000705-2023**

1. Smt. Anita Dada Gaikwad Plaintiffs

Versus

1. Hanumant Sidu Gaikwad Defendants

ORDER BELOW EXHIBIT 21

1) The suit is for demarcation of boundaries and removal of encroachment, recovery of possession. The plaintiffs have stated in paragraph number 4, 5 and 6 of suit and application vide exhibit 21 that defendant number 3 is doing encroachment over suit property. The defendants are disposing off boundary marks of suit property. They are also trying to break dyke (Bandh) of suit property. The plaintiffs have described suit property and boundaries of suit property in paragraph 1 of suit. The plaintiffs have filed the application vide exhibit 21 for appointment of Deputy Superintendent Land Record, Pandharpur as Court Commissioner. It is stated by the plaintiffs that, the defendant number 3 has made encroachment over suit property. There is dispute between plaintiffs and defendant number 3 regarding boundaries of the suit property. The property bearing block Number 43/1 of village Tungat, Taluka - Pandharpur is owned by plaintiff. The property bearing block number 45/2/1 of village Tungat, Taluka Pandharpur is owned by defendant number 3 and the property bearing block number 43/3 village Tungat, Taluka Pandharpur is owned by defendant number 1 and 2. The property bearing block number 43/2 of village Tungat, Taluka Pandharpur is owned by defendant number 1. It is necessary to appoint deputy superintendent land record, Pandharpur, as Court Commissioner to measure property described in

paragraph 1 of suit as well as property bearing block number 45/2/A of village Tungat, Taluka Pandharpur, District Solapur. Therefore, Court Commissioner be appointed for local investigation & inspection of suit property.

2) The defendant number 3 has filed say and raised strong objection. It is stated that, application is false and vexatious. The plaintiffs are trying to collect evidence. The dyke (बांध) in between suit property and property of defendant number 3 is owned by defendant number 3. The plaintiffs have no concerned with it. The plaintiffs are trying to destroy it. Hence, application is to be rejected.

3) I have heard both sides. Upon hearing of both sides and on perusal of application vide exhibit 21, say of defendants vide exhibit 25, the following points arise for my consideration.

Serial number	Points	Findings
1	Do the plaintiffs entitle for appointment of Deputy Superintendent Land Record, Pandharpur as Court Commissioner for local investigation & inspection of suit property and property of defendant number 3 ?	Yes
2	What is order ?	The application is allowed.

Reasons

As to point number 1 & 2

4) The plaintiffs have stated in the application vide exhibit 21 that, the defendant number 3 has encroached upon suit property by destroying the band. The defendant number 3 is trying to destroy boundary marks and doing encroachment over suit property. There is boundary dispute between the

parties regarding suit property. Hence, the application vide exhibit 21 is moved as per the provision of Order 26 Rule 9 for appointment of court commissioner for local investigation. The plaintiffs have prayed for joint measurement of suit property as well as property of defendant number 3. The defendants have raised strong objection to the application. It is stated that, application vide exhibit 21 is false and vexatious.

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) I have perused application vide exhibit 21 and say vide exhibit 25. The plaintiffs have stated that, the defendant number 3 is making encroachment over suit property. There is boundary dispute also with reference to suit property.

7) The plaintiffs have stated that, the defendant number 3 is doing encroachment over suit property. It reveals that, there is dispute between the parties with reference to boundaries of suit property as well as encroachment. Therefore, the local investigation is necessary, in order to ascertain, whether there is any encroachment, or dispute between the parties with reference to boundaries of suit property. The local investigation or inspection of suit property is requisite for the purpose of elucidating the matter in dispute. In present suit, it is required to elucidate the matter in dispute by appointing Deputy Superintendent Land Record, Pandharpur, as the Court Commissioner.

According to Order 26 Rule 9 of Code of Civil Procedure if 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. Hence, the court commissioner can be appointed.

8) Therefore, it is necessary to elucidate the matter in dispute in present suit by appointing court commissioner. The appointment of court commissioner will not amount to collection of evidence. The appointment of court commissioner will not cause prejudice to defendant number 3 rather it is necessary to elucidate the matter in dispute between the parties. Both the parties will get the opportunity to put forth say on the report of court commissioner. In the result, the following order is passed.

ORDER

- 1) The application vide exhibit 21 is allowed.
- 2) Deputy Superintendent Land Record, Pandharpur, Taluka–Pandharpur, District–Solapur is appointed as Court Commissioner to for doing joint survey, fixation of boundaries and take measurements of suit property described in paragraph 1 of suit that is (Gat) block number 43/1 of village Tungat, Taluka -Pandharpur, District- Solapur and property bearing(Gat) block number 45/2/A of village Tungat, Taluka Pandharpur, District Solapur of defendant number 3.
- 3) Deputy Superintendent Land Record, Pandharpur, Taluka-Pandharpur, District– Solapur is to draw the map of suit property described in paragraph 1 of suit, as well as property bearing (Gat) block number 45/2/A of village Tungat, Taluka Pandharpur, District Solapur and to show current status of suit property described in paragraph 1 of suit as well as property bearing (Gat)

block number 45/2/A of village Tungat, Taluka Pandharpur, District Solapur in that map.

- 4) Deputy Superintendent Land Record, Pandharpur, Taluka– Pandharpur, District– Solapur is to put forth map and to furnish report before the court about current position of suit property described in paragraph 1 of suit as well as property bearing (Gat) block number 45/2/A of village Tungat, Taluka Pandharpur, District Solapur within period of four months from date of payment of court commission fee.
- 5) The plaintiffs are to pay requisite fee of court commission and to do all necessary compliance in this behalf within period of two months from date of this order.
- 6) Deputy Superintendent Land Record, Pandharpur, Taluka– Pandharpur, District– Solapur shall give prior notice to all the parties of suit regarding date and time of its visit for commission work to suit property described in paragraph 1 of suit as well as property bearing (Gat) block number 45/2/A of village Tungat, Taluka Pandharpur, District Solapur. All the parties are directed to appear before the Court Commissioner accordingly.
- 7) Issue commission letter accordingly to Deputy Superintendent Land Record, Pandharpur, Taluka– Pandharpur, Distinct Solapur.

Pandharpur
Date – 02-05-2026.

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. <u>576/2023</u>
Name of Stenographer	:-	S.P.Doke
Court Name	:-	Smt. K.A.Katkar, 3 rd Jt. Civil Judge, J.D.& J.M.F.C, Pandharpur.
Date of Decision	:-	02-05-2026
Order signed by P.O. on	:-	02-05-2026
Order uploaded on	:-	02-05-2026