

Regular Civil Suit No. 5/2023

Pritamsinh Deokate vs. Sitaram Lawate
CNR No. MHSO100000592023

ORDER BELOW EXH.61

Defendant No. 1 to 3 have submitted this application that they have submitted a counter-claim and had submitted application for measurement vide Exh.40. Thereafter, national highway has gone from land of plaintiff and defendants. Therefore, name of defendant No. 1 to 3 for some admeasuring area deleted from 7/12 extracts. Accordingly, defendant No. 1 to 3 submitted application Exh.44. Application of both sides for measurement are allowed. But, due to oversight application Exh.40 is sent to commissioner. In fact, it was required to send application Exh.44. Hence, application Exh.44 be sent to commissioner for measurement.

2. On this application, the plaintiff has submitted say that the suit is for fixation of boundary marks of sub-divisions i.e. suit land and not for creating sub-divisions. The Government map shows details of canal boundaries, which are mandatory to use for measurement. Therefore, application Exh.44 may be rejected.
3. I have heard learned advocates of both sides.
4. The suit is for fixation of boundaries and measurement of suit property. Defendant No. 1 to 3 have submitted their counter-claim below Exh.38 for measurement and fixation of boundaries according to sale deed and gift deed along with

perpetual injunction. So, dispute between parties is relating to boundary dispute. As per contention made by defendant No. 1 to 3 vide application (Exh. 58), Exh.40 is sent to the Commissioner. But, thereafter, moved the present application. It is contention of defendant No. 1 to 3 in the application that, from land of plaintiff and defendants national highway has gone, therefore, some portion is acquired, to that portion name of defendant No. 1 to 3 is deleted from 7/12 extracts. In such circumstances, for remaining portion, measurement by Competent Authority is necessary. Therefore, application Exh.44 is allowed. Hence, in the result, I pass the following order :-

ORDER

1. The T.I.L.R. is directed to measure the land as per application Exh.61.
2. Defendant No. 1 to 3 shall deposit costs of the measurement.
3. The T.I.L.R. is directed to comply the measurement within 15 days, as the matter is time bound and measurement be conducted by urgent process.
4. Issue writ accordingly.

Place - Malshiras.
Date - 20/03/2023.

(**U. V. Joshi**)
Civil Judge Senior Division,
Malshiras.