

ORDER BELOW EXH.145 IN Spl.C.S.NO.361/2022

(Passed on 06/01/2025)

Defendant No.9 has submitted this application for appointment of court receiver.

2. In short it is application the plaintiff has submitted suit for partition, declaration and preferential right. The suit property are gat No.776/1 and 769. Defendant No.9 has purchased the both suit properties by registered sale deed. Thereon he is in possession over the suit property. Defendant No.9 has cultivated sugarcane in gat No.776/1. The harvesting of sugarcane is recorded in name of defendant No.9 at the sugar factory Sahkar Maharshi Shankarrao Mohite Patil at Shankar Nagar. The plaintiff has obstructed the harvesting work of sugarcane. The plaintiff has issued notice to the sugar factory retraining from harvesting the sugarcane. Therefore, the sugar factory is not ready to harvest the sugarcane. Therefore, a court receiver be appointed for the purpose of harvesting of sugarcane and the sugar factory be directed to deposit amount of sugarcane bill in the court.

3. To this application the plaintiff has submitted say below Exh.148 that the plaintiff and defendants No.1 to 4 are joint possession over the suit property. The document which is executed in favour of defendant No.9 are false. Interim order

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is against defendant No.9. Against which defendant No.9 has submitted appeal before District Court. Therefore, the application may be rejected.

4. I have heard learned advocate of both sides. As per Order 40 of CPC normally appointment of receiver should not be made unless there are allegations of damage to the property or mismanagement. Furthermore, to remove any person from possession or custody of property, for management, realization, protection, preservation, for collection of rent profit and improvement of property court commissioner may be appointed.

5. Learned advocate of plaintiff submits that interim application Exh.5 is disposed of thereby restrain defendants No.8 and 9 not to obstruct joint possession of plaintiff and defendants No.1 to 7 to the suit property. If, this application is allowed then it would be presumed that defendant No.9 is in possession over the suit property. The learned advocate of defendant No.9 submits that sugarcane is to be harvested to the sugar factory. Therefore, to save the sugarcane from loss, court commissioner may be appointed. I agree with submission of learned advocate of defendant No.9. By appointment of court commissioner no prejudice will be caused to either side.

6. Learned advocate of both sides are agreed to appoint a

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court commissioner. They have suggested name of advocate Shri.R.S.Aarve. So inspite of appointment of court receiver advocate Shri.R.S.Aarve is appointed as a court commissioner for the purpose mentioned in the application. Hence, in the result, I pass the following order:-

ORDER

1. The Learned advocate Shri.R.S.Aarve is appointed as a court commissioner for purpose of harvesting sugarcane from land gat No.776/1 situated at village-Mhalung, Taluka-Malshiras to the sugar factory Sahkar Maharshi Shankarrao Mohite Patil, Shankar Nagar.
2. The court commissioner till completion of the work of harvesting supervise work of harvesting.
3. The sugar factory shall issue a bill of sugar cane in the name of the court and shall deposit bill amount in the court of Civil Judge Senior Division, Malshiras by way of cheque or demand draft.
4. The defendants No.9 shall deposit or pay humdast a court commissioner fees of Rs.15,000/-.

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5. Issue writ to the court commissioner and to the sugar factory Sahkar Maharshi Shankarrao Mohite Patil, Shankar Nagar.

Sd/-

Date-06/01/2025.

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