



Agatrao Nimbalkar & Ors. V/s. Nagesh Surwase & Ors.

ORDER BELOW EXH-05
(Passed on 09/06/2026)

This is an application by plaintiffs under Order 26 Rule 9 of the Code of Civil Procedure (In short the C.P.C.) for appointment of Court Commissioner for measurement of suit properities mentioned in Paragraph No. 1 from serial No. 1 to 8. (herein after referred to as 'suit properties') situated at village Mouje Tandulwadi, Tq. Malshiras, Dist. Solapur, through the D.S.L.R, Malshiras.

2. It is contention of plaintiffs that they filed suit against defendants for measurement and demarcation of suit properties and perpetual injunction. It is further submitted that, plaintiffs are owner of suit properties. However, defendants are trying to encroach over the suit properties of plaintiffs by scratching common band and raising boundary disputes. Therefore, prayed to appoint D.S.L.R. as court commissioner to measure the suit properties meantioned in para No. 1 from 1 to 8.

3. Summons served to all defendants but they did not appear before the court. Matter was proceeded ex-parte against defendant No. 1 to 18, 22 to 33 and 38 to 41 and matter was proceeded without written statements against defendant No. 19 to 21 and 34 to 36. Therefore, this application is proceeded without the say of defendants.

4. Heard learned Advocate for plaintiffs at length. Perused the record.

5. On perusal of record it appears that, plaintiffs have filed this suit

against defendants for measurement and fixation of boundaries and perpetual injunction. On perusal of documentary proof i.e. 7/12 extract of suit properties it appears that, plaintiffs are owner of the suit properties. According to plaintiffs, defendants are trying to encroach on their land. Plaintiffs are ready to deposit measurement fees if application is allowed.

6. The D.S.L.R is an expert and he can measure the whole suit land Gat No. 201/1, 201/2, 202, 203, 204/1, 204/2, 204/3, 204/4 of suit properties and submit the report in the court, stating that, who has encroached on whose land. Therefore, to decide the real controversy between the parties appointment of court commissioner is necessary. If Court Commissioner is appointed by the court, his report would assist the court in determining the matter in controversy between the parties to the suit. Hence, in view of above discussion I proceed to pass following order.

ORDER

1. The application (Exh-05) is allowed.
2. D.S.L.R, Malshiras is hereby appointed as Court Commissioner for measurement of whole land bearing Gat No. 201/1, 201/2, 202, 203, 204/1, 204/2, 204/3, 204/4 situated at village Mouje Tandulwadi, Tq. Malshiras, Dist. Solapur.
3. It is directed to the commissioner to measure the land of plaintiffs and he shall specifically show the encroachment, if found and submit report along with map. It is also directed to the commissioner to fix the boundaries after measurement from four sides.
4. Plaintiffs are directed to deposit the necessary fees in the Office of D.S.L.R, Malshiras within three months from today.
5. The commissioner to issue prior notices to the

plaintiffs and defendants and parties are directed to remain present on day fixed by the Court Commissioner for measurement of the aforesaid land along with their record and shall co-operate the court commissioner.

6. Commissioner shall follow the procedure of such measurement as prescribed by rules and furnish his report to this Court within three months of the receipt of writ of this Court.

Date : 09/06/2026.

(G. M. Biradar)
3rd Jt. Civil Judge Junior Div.,
Malshiras