

Order below exh.5 in Reg. Civil Suit No.508/2014.

This is an application filed by plaintiff for appointment of court commissioner. He has contended that, he has instituted this suit for fixation of boundaries and for permanent injunction .Gat No. 207/2E, 207-1B are the subject matter of this suit. Previously old Gat number of the suit property was 190. Plaintiff, defendant nos. 1,3 to 8 are real brothers. The suit properties were their ancestral properties. By partition case No. 260/1994 partition took place on 31-12-1984 and the suit property was allotted to the plaintiff by M.E.No. 367. Now defendant nos.1, 4 to 6 are trying to encroach over this property by disturbing the bandh and extinguished the permanent boundaries. When he asked for permission to measure the properties, defendants denied. Now it became necessary to measure the land. Hence, this application.

2. Defendants resisted the application by filing Say at Exh.19. They have submitted that, the suit properties are not yet partitioned on meats and bounds. For the purpose of family convenience there are separate cultivation, unless and until the partition took place land cannot be measured. By measuring the suit properties plaintiff desire to show partition. Lastly, they prayed for rejection of the application.

3. Heard both sides, perused the plaint, written statement and documents on record. It appears that the suit is for fixation of boundaries. If the report of T.I.L.R. Will come on record along with map of measuremen, it will helpful to decide the matter on merit. Report of T.I.L.R. Will not cause any harm to defendants. On the contrary it will elucidate the matter in dispute. Hence application is allowed and I proceed to pass following order.

ORDER

1. Application is hereby allowed.
2. T.I.L.R. Malshiras is hereby appointed as a Court Commissioner.
3. The Court Commissioner is directed to measure suit properties Gat Nos. 207/2-E and 207/1-B of village Pathan wasti, Tal. Malshiras, after giving prior notice to the plaintiffs, defendants and all other co-owners and co-sharers in the suit property and all the adjacent land holders and to submit his detailed report with the documents and map prepared by him.
4. The plaintiff is hereby directed to deposit necessary measurement fees directly in the office of T. I. L. R. Malshiras within 15 days from the date of this order.
5. After depositing measurement fee and supply of necessary documents, writ be issued accordingly to T. I. L. R. Malshiras.
6. Issue Writ accordingly.

Dt.6-1-2016.

2nd Jt. Civil Judge Jr. Division,
Malshiras.

Certificate

I affirm that the contents of this P.D.F. File order are same word to word as per the original order.

Name of the Stenographer : J.K. Maindargi.

Name of the court : 2nd Jt.Civil Judge Jr. Division,Malshiras.

Date of decision :6-1-2016.

Order signed by Presiding Officer on :6-1-2016.

Order uploaded on :8-1-2016.