

ORDER BELOW EXHIBIT 07 IN R.C.S.No.82 of 2017

Present application is filed by the plaintiff for appointment of Court Commissioner.

2. It is asserted that the suit is for perpetual and mandatory injunction. Defendants are not having any concern with the suit properties. Even then, defendant No.1 has encroached approximately 2 and half ft. portion of City Survey No.482 and 2 ft. portion of City Survey No.481 and started construction thereon. He has also brought construction material and put it on City Survey No.495. Due to which, way of the plaintiff is obstructed. In view of the above, it is necessary to measure the said properties. Dispute can not be resolved unless City Survey Nos. 482, 484, 491, 492, 493, 494 and 495 are measured. Likewise, Deputy Superintendent Land Record, Barshi be directed to show the encroachment, if any, in the map. Hence, the application.

3. Defendant No.1 has filed the say and opposed the application contending that the application is false. According to him, the suit is for perpetual injunction and hence there is no need to measure the above noted City Survey numbers. Plaintiff is trying to collect the evidence. He has, therefore, prayed for rejecting the application.

4. Perused the record and proceeding. Heard both the sides. Only point which arises for consideration is : Whether the plaintiff has made out a case to allow the application ?

5. It is relevant to note here that the suit is not only for perpetual injunction but also for issuing mandatory injunction.

Prayer Clause 1B of the plaint is clear and specific. Plaintiff has come with a case that the defendants have encroached his properties. He has also categorically stated in the application that defendant No.1 has encroached his properties. Thus, the objection raised by defendant No.1 is without merit. In the circumstances, present application is not without merit. Defendant No.1 will not be prejudiced if the application is allowed. Hence, the application is allowed, as prayed for. Hence, the order.

ORDER

1. Application is allowed, as prayed for.
2. Deputy Superintendent Land Record, Barshi is appointed as Court-Commissioner to measure City Survey Nos. 482, 484, 491, 492, 493, 494 and 495 situated at Bavi Taluka Barshi and to show the encroachment, if any, in the map.
3. Plaintiff is directed to deposit the fees in the said office.
4. Plaintiff is further directed to provide a copy of the present application and property card of City Survey Nos. 482, 484, 491, 492, 493, 494 and 495 to the said office.

Date : 21.12.2017.

(S.K. Khan)
Jt.Civil Judge (J.D.),
Barshi.

CERTIFICATE

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

Name of Stenographer :

Court Name : S.K.Khan,
Jt.C.J.J.D.& J.M.F.C. Barshi

Date : 21.12.2017

Order signed by the
presiding officer on : 21.12.2017

Order uploaded on : 21.12.2017