

Order Below Exh.11 in R.C.S.No. 856/2014

By moving this application vide O XXVI R 9 of the Code of Civil Procedure the plaintiffs want to appoint court commissioner to measure the suit land.

The brief contention of the plaintiff is as under:-

The land of the plaintiffs and defendants are adjacent to each other. The plaintiffs are owner of H.No. 460 adm. area of 1353 sq.ft. and the defendants are adjacent land holders i.e. H.No. 459. It is asserted that the defendants have encroached over the land of the plaintiff. Therefore, in order to bring on record the exact portion of encroachment the plaintiffs want to measure the suit land as well as the adjacent land of the defendants. Thus, they prayed for appointment of court-commissioner.

The defendants have resisted the said application by filing their say at Exh.14. According to them the application is pre-mature. The matter is pending for framing of issues. By filing this application the plaintiffs are trying to collect the evidence, hence, they prayed for rejection of the said application.

Learned advocate for the plaintiff failed to argue. Heard learned advocate for the defendants. Perused the record. The suit has filed for removal of the encroached portion of land and for mesne profit. Without measurement of the disputed land and adjacent land of the defendants, the exact portion of the encroachment cannot be come on record. Therefore, in order to decide the dispute properly it is important to appoint court-commissioner in this case. Thus, the application deserves to be allowed. Hence, the following order:-

**Order**

1      Application is allowed.

- 2 The Deputy Superintendent of Land Record, Barshi is appointed as court commissioner.
- 3 The plaintiff is directed to pay the measurement charges directly to the office of TILR, Barshi.
- 4 The commissioner is directed to measure the area of H.No. 459 & 460 situated at mauje Dhotre, taluka Barshi and prepare the map showing the encroachment if any.
- 5 The parties are at liberty to produce relevant documents at the time of measurement.

Date : 17/10/2016.

(B.S. Sankpal)  
3<sup>rd</sup> Jt. Civil Judge, J.D. Barshi.

Certificate

I affirm that, the contents of this PDF file Order/Judgment are same word to word, as per original Order/Judgment.

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|---------------------------------------------------|--------|----------------------------|
| Name of Stenographer                              | :      | R.H.Lasane.                |
| Court                                             | :      | 3rd JtCJJD & JMFC, Barshi. |
| Date:                                             | :      | 17/10/2016                 |
| Judgment/Order signed<br>by the presiding officer | :<br>: | 17/10/2016                 |
| Judgment/Order<br>uploaded on                     | :<br>: | 19/10/2016                 |