

RCS No.565/2022
Sandesh Vs. Sudam & Ors.
CNR No.MHSO170014542022

ORDER BELOW EXH. 22

This is an application by the plaintiff under Order XXVI Rule 9 of the Code of Civil Procedure for appointment of T.I.L.R. as Court Commissioner.

2. According to plaintiff, he has instituted the present suit for measurement and fixation of boundaries. It is contended by the plaintiff that, the suit property i.e. the original Gat No.159 and its Up Gat are yet to be measured. The defendant has encroached over the suit property of plaintiff mentioned in Para No.1 B and 1 E. therefore, in order to bring factual situation on record, the measurement of abovementioned lands is necessary. Accordingly, the plaintiff requested to appoint T.I.L.R., Madha as Court Commissioner to measure Land bearing Gat 159 and its Up Gat.

3. As defendants did not filed say in spite of giving sufficient opportunity, the application is decided without say of defendants.

4. Perused record and application. Heard learned advocate for plaintiffs.

5. The plaintiff has instituted present suit for Measurement, and fixation of boundaries. On perusal of record, it is seen that, the real dispute between the parties is regarding boundaries of their respective lands and encroachment. In such situation, law is well settled that, such facts cannot be proved unless there has been a measurement through an expert person.

The dispute can be determined by measurement of the adjoining properties in Gat No.159. Considering the nature of dispute appointment of Court Commissioner is necessary to bring factual position on record. Hence, following order;

ORDER

1.	The application is allowed.
2.	The T.I.L.R., Madha is hereby appointed as Court Commissioner for measurement of entire Land bearing Gat No.159 and its all Up Gat situated at village Choubhepimpri, Tal. Madha, Dist. Solapur.
3.	The T.I.L.R., Madha is directed to conduct the measurement of suit properties and all other adjacent lands, if found necessary and specify its exact area, boundaries of the respective parties, extents, location and description of an encroachment, if any, at the hands of defendants or others.
4.	The parties to supply all relevant documents to the T.I.L.R., Madha which are necessary for measurement.
5.	The said measurement be carried out by giving prior notices to the all the concerned parties, as per rules.
6.	The plaintiff to bear the charges of measurement and he shall deposit the necessary charges to the office of T.I.L.R., Madha as earliest.
7.	Issue Commission Writ accordingly.

Date - 06/04/2024

(**V. C. Kshirsagar**)
3rd Jt. C. J. J. D., Madha

C E R T I F I C A T E

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

Name of Stenographer	:	N. B. Kamurti
Court Name	:	Smt. V.C. Kshirsagar 3 rd Jt.CJJD & JMFC, Madha
Date of Order/Judgment	:	06/04/2024
Order/judgment signed by presiding officer on	:	06/04/2024
Order/judgment uploaded on	:	06/04/2024