



**R.C.S.No. 621/2022**  
**Manisha / Surekha etc.**  
**CNRNo.MHSO170018862022**

**ORDER BELOW EXH.13**

This is an application by the plaintiff for appointment of court commissioner under Order 26, Rule 9 of the Code of Civil Procedure, 1908 (In short the “**CPC**”) for carrying out measurement of land in Gat No. 150 ad-measuring 2 H. 85 R and out of which sub Gat No. the plaintiff i.e. Gat No. 150/2 ad-measuring 81 R, situated at village Dahiwali, Tq. Madha, Dist. Solapur (In short the “**Suit property**”) and all adjacent Lands therein for ascertaining exact boundaries and location.

**02]** According to the plaintiff, he is owner and possessor of the suit property. The defendants fields are adjacent to the suit property. They have made an encroachment over the suit property. Hence, he prays for appointment of court commissioner for ascertaining exact area, boundary and location of the suit properties.

**03]** The defendants formally opposed the application.

**04]** Record shows that the suit is for measurement and fixation of boundaries. It is alleged that defendants whose land is adjacent to the suit properties have made encroachment over the same and therefore there arose a dispute of location and boundaries. As such, real dispute in the suit is about alleged encroachment, location and boundaries. In such situation, law is well settled that such dispute cannot be agitated unless there has been a measurement through an expert. It is also an acknowledged principle of law that in a suit for removal of an encroachment and possession, appointment of court commissioner is necessary so as to decide the lis on merit. Therefore, the measurement of the suit properties as well as lands of

defendants by T.I.L.R., Madha will be helpful in elucidating the matter in dispute. Hence, following order :-

**ORDER**

01. The application is allowed.
02. The T.I.L.R., Madha is appointed as court commissioner and directed to measure the entire land in Gat No. 150 ad-measuring 2 H. 85R, its sub Gat Numbers including the plaintiffs land in Gat No. 150/2 ad-measuring 81 R, situated at village Dahiwali, Tq. Madha, Dist. Solapur
03. The TILR, is directed to conduct the measurement of suit properties, above lands of plaintiffs as well as all other adjacent fields, if necessary, and specify their exact area, boundaries of the respective parties, extents, location and description of an encroachment, if any, at the hands of defendants or others.
04. The T.I.L.R., shall submit the map along with its report of measurement to this court within **three months** from the date of receipt of this order.
05. The parties to co-operate with the T.I.L.R., Madha, for completion of the commissioner duty.
06. The said measurement be carried out by giving prior notices to the all concerned parties, as per rules.
07. 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.
08. Issue commissioner writ accordingly.

Date :- 16/09/2023  
Place :- Madha.

**(Y.S.Akhare)**  
Jt.Civil Judge Jr. Division, Madha.

**CERTIFICATE**

I affirm that, the contents of this P.D.F. file Oder/Judgment is same word to word, as per the original order/judgment.

Name of Stenographer : Shri.P.S.Pawar, Grade - 3

Court Name : Jt.Civil Judge Jr. Division,  
Madha.

Order/Judgment signed  
by the Presiding Officer on : 16/09/2023

Order/Judgment uploaded on : 16/09/2023