

**Order below Exh. 39 in R.C.S. No. 410/2015**  
(CNR NO.MHST05-000511-2015)

Perused application and say.

02. Defendant Nos. 7 to 9 have filed an application for giving direction of re-measurement of Gat No. 366. (hereinafter defendant Nos. 7 to 9 will be referred as defendants only for deciding said application.)

Prior to this, Court had given direction on 10/04/2018 for measuring Gat No. 366 and demarcation. Accordingly, on 26/12/2018 measurer of Land Record had measured Gat No.366/1, 366/2 & 366/3 and fixed demarcation too. On 30/03/2019 map of the same came to be filed in the Court. On receiving the copy of the same, defendant came across that area of his Gat No. 366/3, as per 7x12 extract is 1H, 82 R but it is mentioned in the map 1H, 46R.

In fact, the land of plaintiff situated towards east of the Gat No. 366/3 of the defendants. During said measurement it came before that plaintiff has encroached the land of defendant up to 0.36R. As well as the area of Gat No.366/1 is shown in 7x12 extract as 1.41R, however, while getting measured it revealed that it is 1H, 77R.

In the map it is nowhere mentioned that how much encroachment found to be done the holder of Gat No.366/2. Therefore, defendant wants to get re-measured said 0.36R land.

03. Plaintiff has filed his say on said application. According

to him, there is no force in the submission of defendants. If defendants not agreed with the measurement dated 26/12/2018 then they can move for Nimitana Measurement i.e. get measured the spot from superior authority of earlier measurement. With said submission, he prayed for rejection of the application.

04. I have gone through both application and say. It is to be mentioned here that, it is the suit of the plaintiff for simplicitor injunction. In prayer clause of plaint, it is nowhere mentioned about encroachment on part of defendants or getting removed encroachment if any. There is no W.S. filed by the defendants. Therefore, nothing is on record to see that what is the stand of defendants regarding the suit.

05. In such circumstances, it is difficult to ascertain that why the defendants are claiming for getting re-measured the Gat No.366/1, 366/2, 366/3. When there is no prayer of removing encroachment, of the plaintiff, in such circumstances, no reason to make it clear the prayer clause a,b and c in this application. Therefore, I did not find the reason for re-measuring the suit property. Therefore, I proceed to pass following order.

**ORDER**

Application stands rejected.

Place: Karad.  
Date: 23.06.2022.

(Jayshree Punawala)  
3<sup>rd</sup> Jt. Civil Judge, S. D. Karad.