

MHST080007742022

REGULAR DARKHAST NO.10/2022

Janardan Jaysing Chavan

V/s.

Sampat Aanandrao Chavan and Ors.

ORDER BELOW EXH NO.13

The present application is moved by the decree-holder for appointment of Taluka Inspector of Land Records, Khandala as a court commissioner for measurement of suit property.

02. I have perused the application and heard learned advocate for decree-holder. It is averred in the present application that original Regular Civil Suit No.12/2013 was filed by the plaintiff (decree-holder) for possession and removal of encroachment against the defendants (judgment-debtors) which was partly decreed on 16.06.2016. The defendant No.1 is directed to hand over vacant and peaceful possession of suit property i.e. Gat No.320, admeasuring 58R out of which property towards eastern side admeasuring 4.30R and defendant No.2 is directed to hand over peaceful and vacant possession of property towards western side admeasuring 0.50R situated at Mouje Bhade, Tal. Khandala, Dist. Satara to the plaintiff. The aforesaid suit was decided without written statement of the defendants (judgment debtors).

03. The notice was duly served on the judgment-debtors in the present execution petition. However, they failed to appear before the Court and file their objection or say. Hence, 'No Say' order was passed against judgment debtors vide order dated 21.01.2025.

04. In the present case, the main suit was partly decreed in favour decree holders and they are entitled for peaceful and vacant possession of property as mentioned in the decree in Regular Civil Suit No.12/2013. Moreover, there is Regular Civil Appeal No.197/2016 which was rejected by the Hon'ble District Court, Satara vide order dated 14.03.2022. There is no other appeal pending against decree in Regular Civil Suit No.12/2013. Now, as per the operative order of said decree, the some portion from Gat No.320 is to be allocated or given to the decree-holder from judgment debtor No.1 and 2. The ascertainment and determination of said portions admeasuring 4.30 R towards eastern side and 0.50 R towards western side are required to be carried out by the court commissioner so as to decide exact determination of boundaries of said portions.

05. The Hon'ble Bombay High Court in case of ***Satyawati v. Rajinder Singh and Another; 2014 (1) Mh.L.J. 624 SC*** held that “ *There should not be unreasonable delay in execution of a decree because if the decree holder is unable to enjoy the fruits of his success by getting the decree executed, the entire effort of successful litigant would be in vain.*” Looking into the facts of the present case, there is delay of almost 10 years caused to the decree holder to get vacant possession of his suit property. At this stage, it appears that interests of decree holder is required to be protected. Accordingly, following order will suffice the purpose :

ORDER

1. Application at Exh.13 is allowed.
2. The Taluka Inspector, Land Records, Khandala is hereby appointed as a Court Commissioner to measure suit

property i.e. Gat No.320, admeasuring 56R out of which property to be handed over to the decree-holder towards eastern side admeasuring 4.30R and towards western side admeasuring 0.50R situated at Mouje Bhade, Tal. Khandala, Dist. Satara by the judgment debtors Nos.1 and 2 respectively and he is also directed to fix boundaries of property to be handed over to the decree-holder as stated above.

3. The decree holder is directed to deposit necessary charges for the said measurement in the Taluka Inspector, Land Records, Khandala office within fifteen days from the date of this order.
4. The Commissioner shall measure the land after giving prior notice to decree holder and judgment debtors. He shall file his report along with measurement map on or before 30.03.2026.

Date: 09.02.2026.
Khandala.

(Smt. S. G. Kuvalekar)
Civil Judge Junior Division
Khandala