

MHST160010642014



**ORDER BELOW EXH.34 IN**  
**REGULAR DARKHAST NO. 46/2014**

(Dilip Gangaram Kadam Vs. Ramesh  
Kondiba Dalvi and ors.)

The Decree Holder has filed application for appointment of court commissioner under Order 26 Rule 9 of the Code of Civil Procedure. The Decree Holder averred that, the decree is passed to hand over possession of encroached portion from the Judgment debtor, therefore it is necessary to appoint T.I.L.R. as court commissioner. The Judgment debtor failed to file say to the application. Hence application proceeded without say against Judgment debtor.

2. From the record it appears that, Judgment debtor preferred Second Appeal before Hon'ble High Court and the Second Appeal is dismissed. Decree Holder has filed copy of order passed by Hon'ble Bombay High Court in Second Appeal no.811/2017, which shows that Hon'ble High Court held that the decree has been passed in respect of 25 sq. meters area as per order as per Exh.39 map, and Second Appeal is dismissed. The Judgment debtor has filed copy of Special Leave Petition filed by him before Hon'ble Supreme Court, the writ is received by this court and it appears that Special Leave Petition filed by Judgment debtor is also dismissed.

3. The execution application is pending from last 9 years. The Judgment debtor raising objections on this or that ground. It appears that the decree is confirmed up to the Hon'ble Supreme Court. Hence it is necessary to proceed further to hand over

possession of encroached portion to Decree Holder. For the reasons, I pass following order.

**ORDER**

1. The application is allowed.
2. The T.I.L.R. is appointed as court commissioner to hand over possession of C.T.S. no.1183-B admeasuring 25 sqr. meters as per map at Exh.39.
3. The Decree Holder shall pay court commission fee in the concerned office.
4. After measurement the court commissioner shall hand over possession to the Decree Holder .
5. Issue possession warrant accordingly.

Place : Wai  
Date : 04.08.2023.

(C. V. Shirsat)  
Jt. Civil Judge Jr. Dn.,  
Tal-Wai. Dist-Satara.