

MHST200002972020



Spl.Darkhast. No.15/2023
Lily vs. Maurice

ORDER BELOW EXH.179

The present application is filed by DH for issuance of appropriate directions to the DILR Satara to determine and demarcate the respective portion of the parties on the sanction layout plan dated 09/04/2010 in terms of compromise decree dated 14/07/2017. The applicant has further submitted that the shares measuring 20.5R each be demarcated in favour of DH and JD and that the common area admeasuring 10R including internal road, by identifying as contemplated by the compromise decree.

02. The JD has filed his say. The JD has no objection if DILR is directed to carry out demarcation strictly in accordance with compromise decree. However, it is contended that DILR should not show any access road through CTS No.369B, belonging to the JD as according to him such approach is not part of the compromise decree. He has already born his share of survey expenses. Therefore, expenses of the present exercise should not be saddle upon him.

03. Heard learned advocate for both the parties. The learned advocate for DH submitted that they do not want any fresh court commission. They only want specific directions be given to DILR to determine and demarcate the shares of the parties. He further submitted that the Hon'ble Appex Court has set aside order below Exh.57, 158, 129 on the ground that the alteration of shares is not as per compromise decree. He further submitted that for determine and demarcate the shares of DH and JD and the common area further directions can be given to DILR. Hence, he

prayed for allowing the application.

04. The learned advocate for the JD submitted that they have no objection to appoint court commissioner. But their submission in regard that the court should give specific directions to the commissioner not to enter in the suit property from the gate situated in CTS No.369B. He further submitted that the expenses of the said exercise should be paid by the DH only.

05. Perused the application, say, compromise decree and Judgment of Hon'ble Supreme Court. It is not disputed that during execution proceeding this court had appointed DILR as a commissioner. Pursuant thereto the commissioner submitted his Report at Exh.114. On the basis of said report, this court passed orders dated 19/07/2021, 26/07/2021 and consequential order dated 11/10/2021.

06. The Hon'ble Supreme Court by Judgment dated 09/04/2026 in Civil Appeal arises out of Supreme Court (Civil) No.8166 of 2022 has set aside aforesaid orders and categorically held that the executing court cannot travel beyond compromise decree has to be execute strictly according to it's terms.

07. On careful consideration of the present application, it is evident that DH has not sought appointment of a fresh court commissioner. The prayer is only for issuance of appropriate directions to the competent authority namely DILR to carry out determination and physical demarcation on the sanction layout plan dated 09/04/2010 for effective implementation of the compromise decree.

08. This court finds that after the Judgment of Hon'ble Supreme Court, execution has to be proceeded strictly in accordance with compromise decree. For implementation of the decree technical assistance of the land record department is necessary for identifying and physical demarcating the shares of the sanction layout plan. Such exercise is ministerial and technical

in nature and does not amount to modification or alteration of the compromise decree. The DILR is only required to identify and demarcate respective portion strictly in accordance with compromise decree and sanction layout plan.

09. The objections raised by JD regarding the approach through CTS No.369B also deserves to be recorded. Since the Hon'ble Supreme Court has specifically directed execution strictly in terms of compromise decree, DILR shall confine itself to the compromise decree and sanction layout plan dated 09/04/2010 and shall not introduce any future approach road or alignment inconsistent with the decree. The contention regarding liability for expenses need not be decided at this stage. The same shall remain open for consideration separately after receipt of the report, if necessary. Accordingly, application deserves to partly allowed. Hence, the following order :-

ORDER

1. Application is partly allowed.
2. The District Inspector of Land Records, Satara / District Superintendent of Land Record, Satara who had earlier acted as court commissioner and submitted report at Exh.114, is directed to undertake the exercise of determination and physical demarcation of the respective shares of the parties on the sanction layout plan dated 09/04/2010.
3. The DILR shall demarcate -
 - a) portion admeasuring 20.5 allotted to D.H.
 - b) portion admeasuring 20.5 allotted to JD
 - c) 10R common area including the internal road if to the extent provided in the compromise decree and sanction layout plan dated 09/04/2010.
4. While carrying out the above exercise, the DILR shall strictly adhere to the compromise decree and sanction layout

plan and shall not make any allotment, alteration or provide any access inconsistent with the decree. The objections raised by JD regarding CTS No.369B shall be kept in view and DILR shall not indicate any approach through the said property unless such access is expressly contemplated by the compromise decree or sanction layout plan.

5. DILR shall issue prior notice to the both the parties permit them to remain present at the time of demarcation and thereafter submit an Compliance Report together with measurement map before this court within 6 weeks from the receipt of Writ.

6. The question regarding liability for expenses of said exercise is kept open for determination at appropriate stage.

7. Issue necessary Writ to DILR accordingly.

(K.S.Suryawanshi)

Civil Judge Senior Division, Wai
Dist-Satara.

Date: 30.07.2026
