



**ORDER BELOW EXH.05.**

(CNR No. MHWS02000210-2021)

This is an application filed by plaintiff for appointment of T.I.L.R. as Court Commissioner for measurement of the suit property i.e. Gat No.408/2 having disputed area of share of plaintiff 00 H. 16.53 R. out of total area 02 H. 59 R. situated at Washim Part – 3, Tq. & Dist. Washim.

2] I have read the application and say. Perused the record. Heard both the parties.

3] It is the contention of the plaintiff that, defendant has made encroachment on disputed area of his share of 00 H. 16.53 R. out of Gat No.408/2 situated at Washim Part – 3, Tq. & Dist. Washim. Therefore, he constrained to file present suit for demarcation of boundary marks and removal of encroachment and possession. He has further contended that, in order to bring the factual and correct position in respect of the suit property on record, it is very necessary to appoint T.I.L.R. as court commissioner. As such he has prayed for appointment of T.I.L.R. as court commissioner for carrying out the demarcation and measurement.

4] The defendant on the other hand filed his say vide Exh.14. He has strongly opposed the application and submitted that he had purchased the land Gat No.4 area 01 H. 60 R. vide registered sale deed dated 11/11/1994 and since then he is in possession of his land which later on converted into N.A. layout. That the plaintiff on

the other hand sold out his land Gat No.408/2 area 01 H. 62 R. to Mayadevi Lalchand Badlani and Gopaldas Shitaldas Devnani on dated 13/06/2011 and therefore, there is no land remaining towards the Washim – Chikhali Road on Western side of the plaintiff. Therefore, suit is not maintainable. It is also contended that plaintiff himself not filed any measurement map at the time of filing of the suit. Therefore, present application being devoid of any substance is liable to be rejected. According to him, plaintiff want to appoint T.I.L.R. for collection of evidence which is not permissible. Thus, he has submitted for rejection of application.

5] As stated above the present suit is for removal of encroachment and for possession and demarcation of the boundaries. Plaintiff in the present suit came with a specific case that defendant has made encroachment over the suit property. Therefore, considering the nature of the present suit, in order to elucidate the matter in dispute and for the just decision of the matter, in my view, it is necessary to measure the suit property. So also the object of the local investigation is not so much to collect evidence which can be taken in the court but to obtain evidence which from its pecuniary nature can only be had on the spot.

6] Thus, in the light of above discussion and considering submission made by the parties, and nature of the suit, it would be justifiable to appoint the T.I.L.R. as a Court commissioner to measure the suit property. Hence, I proceed to pass the following order;

**ORDER**

- 1] Application is allowed.
- 2] The T.I.L.R., Washim is hereby appointed as a Court Commissioner for the local investigation of the suit property.
- 3] T.I.L.R is directed to conduct measurement of the suit property and submit his report.
- 4] Plaintiff shall bear the costs of commission.
- 5] Fees and necessary expenses be deposited in the office of T.I.L.R., Washim directly.
- 6] Issue Commission Writ accordingly.

Washim.  
Date : 29/07/2025.

( **Smt. P V Rane** )  
Civil Judge (Sr.D.), Washim.

**CERTIFICATE**

I affirm that the contents of this PDF file judgment/order are same word to word, as per original judgment/order.

- 1) Name of Stenographer :- S. P. Kale (Stenographer G-III)
- 2) Name of Court :- Civil Judge (S.D.), Washim.
- 3) Date :- 29/07/2025
- 4) Order signed by the presiding officer on :- 29/07/2025
- 5) Order uploaded on :- 31/07/2025