

ORDER BELOW EXHIBIT NO. 17
PASSED ON 14/09/2018

Read the application and say. Heard Shri. G. G. Maske for the plaintiff and Shri. M. J. Ghadge(patil) for the defendant.

02. Through the present application ,defendant prayed for measurement, of the suit land i.e. agricultural land situated at mauja Varvat Tq. Pusad, Dist. Yavatmal, in S. No. 23/2 admeasuring 2H44R, by T.I.L.R. According to him, the suit land is in his possession .Some portion of the suit land is adjacent to the road. Out of this suit land , some portion of the suit land , which is adjacent to the road, is being acquired by for Railway project. Hence, the plaintiff is trying to receive the consideration amount for this piece of land out of 26R which forms the part of suit land. Therefore, it is necessary to ascertain the portion of the suit land possessed by the plaintiff and the defendant. Hence the present application. The plaintiff, strongly opposed the present application,on grounds that there is no provision in the C.P.C. to demark the suit land and this is nothing but to collect the evidence, therefore the application is not maintainable and hence prayed for rejection.

03. Heard learned advocates for both the sides.

04. Following points arise for my determination. I have recorded my findings with reasons thereon as under.

Sr. No.	Point	Answer
01.	Whether the measurement of the suit land through T.I.L.R. is required for the purpose of elucidating the matter in dispute, in the present suit ?	No.
02	What Order ?	Application is rejected

REASONS

Point No.1:

04. I have gone through the record of the case. Heard Shri Ghadge Patil for plaintiff and Shri Maske for defendant. The Suit is for the relief of perpetual injunction. According to the defendant, some portion of the suit land is adjacent to the road. Out of the suit land the possession of, 26 R land, adjacent to road, is to be measured by T. I. L. R. It's measurement is required because, if the suit land got measured the dispute between parties come to an end. This portion is being acquired for the railway project and the plaintiff is trying to receive the consideration amount for that portion. The perusal of record shows that, it is suit for the perpetual injunction and the measurement of the suit land as prayed in present application, in my view, is not required for deciding the present suit. The measurement of suit land by T.I.L.R., is prayed for restraining the plaintiff from receiving the

consideration amount. Moreover, at the time of hearing on present application advocates for both the sides and both parties, orally submits that, after filing of the present application in meantime, the office of SDM, Pusad cum land acquisition authorities, measured the land including suit land at Muaja Varvat, Tq. Pusad for proposed Wardha-Nanded Railway project. Hence, I do not found it is required to direct the T.I.L.R. for measurement of the suit land at this stage. In the result I answer point no. 1 in the negative.

Point No. 2:

05. I already held that, measurement of the suit land through T.I.L.R. is not necessary for the purpose of elucidating the matter in dispute, at this stage. Therefore, the application is liable to be rejected. Hence, following order.

ORDER

Application is rejected.

Pusad
Date: 14/09/2018

(Smt. Minakshi M. Dhanraj)
5th Jt.Civil Judge (Jr.Dn.) Pusad