

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

CIVIL APPLICATION NO.1214 OF 2014
IN
SECOND APPEAL NO.353 OF 2012

Smt. Bhagirathibai wd/o Dhansukh Gadodiya (Dead) thr. L.Rs. Manik s/o
Dhansukh Gadodiya & Ors.

Vs.

Ganesh Haribhau Adhav

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri Naresh Saboo, Advocate for appellants
Shri M.V. Mohokar, Advocate for respondent.

CORAM: A. S. CHANDURKAR J.

DATED: JANUARY 16, 2015.

This application has been moved by the appellants-original plaintiffs seeking appointment of the Taluka Inspector of Lands and Records, Shegaon, District Buldhana as Commissioner for demarcating the area owned by the Municipal Council Shegaon and the appellants in respect of Survey No.302(2). It is stated that though the trial Court had appointed Commissioner, report submitted had not been accepted. It is the case of the appellants that part of construction of the respondent is on the appellant's property. It is therefore submitted that report of the Commissioner would be necessary to cut-short the dispute.

The application is opposed by the respondent by filing reply. It is stated that in view of earlier map at Exhibit-160, there is no need to again appoint Commissioner in that regard. The trial Court has not accepted the said report at Exhibit-160 on the ground that boundaries of the land belonging to the plaintiff and the Municipal Council had not been specified.

Considering the nature of dispute and the reliefs sought in the suit, it would be in the interest of justice that the T.I.L.R is appointed to measure the land in Survey No. 302(2), part of which is owned by the Municipal Council and other part by the appellant. The structure constructed by the respondent on said Survey number shall also be measured. The appellants to bear the cost of the Commissioner. The commission shall be executed in accordance with law after giving due notice to the parties. The Commissioner is directed to give due intimation to the Chief Officer, Municipal Council, Shegaon with regard to carrying out the work of measuring Survey No.302(2) and it would be open for the Municipal Council to depute any responsible officer for said purpose. The said report shall be submitted by 20/02/2015. Humdast granted to the appellants.

Civil Application is disposed of in aforesaid terms.

JUDGE

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