

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

CIVIL REVISION APPLICATION NO. 880 OF 2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Mukund Pise for the Applicant.
Mr. Jaydeep Deo for the Respondent.

**CORAM : K. K. TATED, J.
DATED : 17/06/2016**

PC.:

. Heard learned Counsel for the parties.

2 By this Civil Revision Application, the defendants have challenges the order dated 24.04.2014 passed by 2nd Joint Civil Judge, Junior Division , Pune in Civil Suit No. 1778 of 2009 Suo Motu directing the parties to appoint TILR as Court Commissioner to measure the suit property.

3 It is to be noted that in the present proceeding, the respondents plaintiffs filed praecipe dated 08.09.2011 calling the record and proceeding of earlier suit No. 1338 of 2007 in which the Court Commissioner was appointed to find out the encroached area in respect of the same suit land. That application was allowed by the Court. If the

suit land was measured by the Court Commissioner in earlier suit for the same purpose i.e. to find out area of the encroached land, it is not necessary again to appoint the Court Commissioner in the present matter i.e. Regular Civil Suit No. 1778 of 2009. The Trial Court in impugned order dated 24.04.2014 held that the Court Commissioner submitted the report in earlier suit and hence, that can be considered in the present suit.

4 Considering these facts, Civil Revision Application is allowed in following terms:

a) Order dated 24.04.2014 passed by 2nd Joint Civil Judge, Junior Division, Pune below Exh.1 Suo Motu for appointment of Court Commissioner for joint measurement of the suit property, is set aside.

b) Hearing of Regular Civil Suit No. 1778 of 2009 is expedited.

c) No order as to costs.

(K.K.TATED, J.)