

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAS) NO.554/2023

IN
SECOND APPEAL NO.459/2022

Istari Natthuji Gulpude

Vs.

Durgabai Tularam Chaudhari and another

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

Court's or Judge's orders

Shri Y.N. Thengre, Advocate for applicant
Shri P.A. Markandeywar, Advocate for respondents

CORAM : SMT. M.S. JAWALKAR, J.

DATED : 20/04/2023

The present application is filed for grant of permission to appoint Commissioner under Order 26 Rule 9 of the Civil Procedure Code by the respondent. It appears that the original owner sold the part of property to the plaintiff and part of property to the defendants. There is dispute on purchase of open space. Both the plaintiff as well as defendants are claimed that they are in possession. It would be appropriate to appoint Court Commissioner, so as to ascertain the possession of suit plot in this regard.

2. Learned Counsel for respondents suggests that an Engineer of Municipal Council of Umred be appointed as a Court Commissioner. Both the parties i.e. plaintiff and defendants will produce their respective sale deeds before the Engineer of Municipal Council, Umred. Municipal Council is having record of

the same. As such, it will be appropriate to appoint the Court Commissioner.

3. Learned Counsel for appellant has no objection, if respondents will pay the charges of Commissioner. As such, application is allowed.

4. Municipal Council, Umred is hereby directed to depute an Engineer to measure the area of houses of appellants and respondents and of their courtyards after verifying the sale deeds of both the parties.

5. The Court Commissioner shall submit his report in the 2nd week of June, 2023.

6. The respondent to deposit Court Commissioner's fees as per Rules.

7. The application stands disposed of accordingly.

JUDGE

R.S. Sahare