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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.9771 OF 2014

Bajirao Govindrao Bhosle,
age: 60 years, Occ: Agriculture,
R/o Anpatwadi, at Post Pargaonghumra,
Tal. Patoda, District Beed.

PETITIONER

VERSUS

1 Devaibai Tukaram Bhosle,
age: 70 years, Occ: Agriculture,
R/o Atpatwadi Tahat Pargaonghumra,
Tal. Patoda, District Beed.

2 Sadashiv Govindrao Bhosle,
age: 40 years, Occ: Agriculture,
R/o as above.

3 Deelip Bhagwan Jaybhay,
age: 34 years, Occ: Agriculture,
R/o as above.

4 Sunil Bhagwan Jaybhay,
age: 39 years, Occ: Agriculture,
R/o as above.

5 Ramesh Bhagwan Jaybhay,
age: 36 years, Occ: Agriculture,
R/o as above.

RESPONDENTS

Mr.S.S.Bora, Advocate for petitioner

CORAM : N.W. SAMBRE, J.

DATE : 23rd November, 2015

ORAL ORDER :

1. Pursuant to an application for appointment of Commissioner, moved under Order XXVI, Rule 9 of the Code of Civil Procedure, in the execution proceedings bearing R.D. No.15 of 2012, the Taluka Inspector of Land Records has prepared report, which is objected by the petitioner by moving second application Exhibit-17 for appointment of another Court Commissioner. The ground of disagreement with the earlier report of Taluka Inspector of Land Records is that he has measured some different land of the said Survey Number. The second application for appointment of Court Commissioner (Exhibit-17) came to be rejected by the learned executing Court by an order dated 22nd August, 2014. Thus, the present petition.

2 Mr.Bora, learned Counsel appearing on behalf of the petitioner would urge that the application ought to have been granted, in view of the fact that the petitioner is a decree holder, who is seeking execution of the decree by appointment of Court Commissioner, which exercise is required to be carried out at his behest and costs.

3 The above referred submissions cannot be accepted, particularly having regard to the fact of measurement of the land by the Taluka Inspector of Land Records and drawing of panchanama and report to that effect. Since it is brought on record that those reports are incorrect,

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it will be inappropriate to pass an order of appointment of another Court Commissioner. The executing Court, in my opinion, has rightly considered the entire gamut of the matter and has rejected the application.

4 In that view of the matter, no case for interference is made out in exercise of extraordinary jurisdiction of this Court. Thus, writ petition fails and stands rejected with no order as to costs.

(N.W. SAMBRE, J.)

amj