

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3731 OF 2015

WITH

WRIT PETITION NO.3734 OF 2015

WITH

WRIT PETITION NO.3735 OF 2015

Shri. Pravin Pandurang Patil

.. Petitioner

Versus

Executive Engineer,

Pradhan Mantri Gram Sadak Yojana,

Zilla Parishad Premises, Sangli

.. Respondent

Mr. G. S. Godbole i/by Mr. Ajit J. Kenjale, for the Petitioner in all the above Writ Petitions.

CORAM : R.M. SAVANT, J.

DATE : 7th OCTOBER, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the orders dated 09.01.2015 passed by the Learned 2nd Joint Civil Judge, Senior Division, Sangli, by which orders the applications filed by the Petitioner in each of the suits in question for appointment of the Court Commissioner came to be rejected. The suits in question have been filed by the Petitioner who was awarded the contract for construction of the roads in question under the scheme known as the Pradhan Mantri Gram

Sadak Yojana in the year 2009 for recovery of the amounts which are allegedly due to him towards the work executed by him. In so far as Writ Petition No.3734 of 2015 is concerned, in the suit in question i.e. Special Civil Suit No.54 of 2012 an amount of Rs.29,68,310/- was claimed by the Plaintiff towards the work executed by him. In so far as the Writ Petition No.3731 of 2015 is concerned, in the suit in question i.e. Special Civil Suit No.58 of 2012 an amount of Rs.40,20,000/- is claimed by the Plaintiff towards the work executed by him. In so far as the Writ Petition No.3735 is concerned, in the suit in question i.e. Special Civil Suit No.62 of 2012 an amount of Rs.32,70,000/- is claimed by the Plaintiff towards the work executed by him.

2. The contract awarded to the Petitioner/Plaintiff was terminated by the Respondent on 19.12.2011 and it seems that the work has been reallocated to another contractor namely one Unity Builders. The applications for appointment of the Court Commissioner in each of the three suits were filed by the Plaintiff on the ground that the new contractor would alter the work already executed by the Plaintiff and therefore, it is necessary to report the work carried out on the site in question and also to measure the width of the road. The Trial Court has rejected the said applications in view of the fact that another contractor has already been appointed and the appointment of the Court

Commissioner would unnecessarily complicate the matters. The Trial Court also observed that it is for the Plaintiff to prove his case by adducing cogent evidence. In my view, having regard to the facts aforesaid, the order rejecting the applications for appointment of the Court Commissioner in each of the suits which is the subject matter of the above Petitions cannot be found fault with. Hence, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petitions are accordingly dismissed.

[R.M. SAVANT, J]

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/Order.