

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

WRIT PETITION NO.6657 OF 2015

Yuvaraj Amrutrao Shinde : Petitioner.
Versus
Divisional Manager,
Hindustan Petroleum Corporation Ltd. and ors. : Respondents.

Mr. Vinod Sangvikar i/by Mr. U R Mankapure for the Petitioner.
Ms. Raksha Thakkar a/w Ms. Minoo Siodia i/by M/s. Rustamji & Ginwala
for the Respondent No.1.

CORAM : R. M. SAVANT, J.
DATE : 06th October 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 14/01/2015 passed by the learned Joint Civil Judge, Senior Division, Satara by which order the application for appointment of the Court Commissioner has been rejected.

2 The said application has been rejected by the Trial Court in view of the fact that the Sub Divisional Officer has stated that the construction of petrol pump is within the boundaries of the plot which is allotted to the Defendant No.1 i.e. Hindustan Petroleum Corporation Limited. It is having regard to the said fact that the Trial Court did not deem it appropriate to appoint Court Commissioner. The Trial Court was of the view that if the Plaintiff was espousing the cause of the residents, he ought to have filed a suit in a representative capacity. The Trial Court further observed that it is for the

Plaintiff to prove his case by leading cogent evidence and cannot seek aid of the Court by appointment of the Court Commissioner.

3 Having regard to the well settled principles which are applicable to the consideration of application under Order XXVI Rule 9 of the Code of Civil Procedure, no fault can be found with the impugned order passed by the Trial Court. Hence no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]

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