

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4237 OF 2015**

Subhash Anant Karkhanis

..Petitioner

Vs.

Shanta Sardarmal Rathod & Anr.

..Respondents

Mr. Ramesh Sawant i/b Mr. S. V. Pitre for the Petitioner

CORAM : R. M. SAVANT, J.

DATE : 24th AUGUST, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the three orders dated 20-4-2013, 12-11-2013 and 15-4-2014.

By order dated 20-4-2013 application Exhibit 34 for appointment of the Court Commissioner was allowed and the Court Commissioner by way of the TILR was appointed as the Court Commissioner.

By second order dated 12-11-2013, the application Exhibit 44 for correction of the order dated 20-4-2013 came to be rejected.

By the third order dated 15-4-2014 the application of the Petitioner for appointment of the Town Planning Officer as the Court Commissioner came to be rejected.

2 In so far as the appointment of the Court Commissioner is concerned, the Trial Court has appointed the TILR as the Court Commissioner

to visit the site and submit a report as regards the construction which is being carried out by the Defendants. The Trial Court has thereafter rejected the application filed by the Petitioner for correction of the order and for appointment of the Town Planning officer on the ground that such a course of action could not be followed by taking recourse to Sections 152 and 153 of the Civil Procedure Code.

3 The Learned Counsel for the Petitioner states that appointment of the Town Planning Officer as the Court Commissioner is warranted in view of the scope of the commission of work that is required to be carried out.

4 In my view, it is not possible to accept the said contention of the Learned Counsel appearing for the Petitioner as the TILR is also an officer of the revenue department who undoubtedly can carry out the mandate that is issued by the Trial Court in so far as the said commission work is concerned. Hence no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]