

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11434 OF 2014**

Suhas Sharadchandra Deshpande & Ors.

..Petitioners

Vs.

Vaishali Vikas Deshpande & Ors.

..Respondents

Mr. S. S. Kothari for the Petitioners

CORAM : R. M. SAVANT, J.

DATE : 24th AUGUST, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 5-7-2014 passed by the Learned Joint Civil Judge Junior Division, Dapoli, by which order, the application Exhibit 40 for appointment of the Court Commissioner came to be rejected. The rejection of the application is on the ground that though the predecessor of the Petitioners have got 15.9 Ares of land pursuant to the decree of partition which was passed in the Suit in question being Regular Civil Suit No.139 of 2012 and in pursuance of which a statement was prepared by the revenue authorities. The said statement does not disclose the boundaries of the said land nor the map has been prepared on the said basis. The Trial Court has therefore observed that in the said circumstances the question would arise as to which land the Court Commissioner is required to measure. The Trial Court has accordingly rejected the said application.

2 In my view, having regard to the reasons mentioned by the Trial Court, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

3 However, it would be for the Petitioners to apply to the Trial Court for permitting the Petitioners to make an application to the revenue authorities for getting the land measured and for preparing a map. Needless to state that if any such application is made, the same would be considered by the Trial Court in accordance with law, uninfluenced by the impugned order.

[R.M.SAVANT, J]