

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10046 OF 2014**

Dattatray Sharanappa Hanchate

..Petitioner

Vs.

Narshinh Sidram Tapse & Ors.

..Respondents

Mr. Suhas Indamdar for the Petitioner

CORAM : R. M. SAVANT, J.

DATE : 14th JANUARY, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 16-7-2014 passed by the Learned Civil Judge Senior Division, Solapur, by which order, the application Exhibit 72 for appointment of the Court Commissioner came to be allowed. The said application Exhibit 72 was filed by the Plaintiff for appointment of the Court Commissioner as according to the Plaintiff on account of the construction carried out by the Defendants, the structure of the Plaintiff is affected. The Suit in question has been filed for perpetual injunction and also for restraining the Defendants from carrying out construction without permission. The Trial Court held that in so far as the construction is concerned, the Defendant Nos.2 and 3 and its officers are competent to take action. However in so far as the damage caused to the Plaintiff's structure in question is concerned, the Trial Court came to a conclusion that the appointment of the Court Commissioner is required. It is

well settled to elucidate the matter in controversy the Trial Court is within its right to appoint a Court Commissioner.

2 In my view, in the facts and circumstances of the case, the appointment of the Court Commissioner cannot be faulted with. No case for interference in the Writ Jurisdiction of this court is therefore made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]