

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

**WRIT PETITION (STAMP) NO.28811 OF 2014**

**Shri. Tukaram Bhau Mane and others**

**.. Petitioners**

**Versus**

**Shri. Dhanchandra Bharmu Kodage and others**

**.. Respondents**

**Mr. Rahul S. Kulkarni, for the Petitioners.**

**CORAM : R.M. SAVANT, J.**

**DATE : 20<sup>th</sup> FEBRUARY, 2015**

**PC.**

1. The Writ Jurisdiction of this Court is invoked against the order dated 28.08.2014 passed by the Learned District Judge-1, Jaysingpur, by which order the application Exh.17 for appointment of the Court Commissioner filed by the Petitioner came to be rejected.

2. The application is rejected principally on the ground that the joint measurement has already been carried out through the Court Commissioner, whose evidence has also been adduced in the suit. The Lower Appellate Court therefore, did not find it appropriate to reappoint the Court Commissioner and accordingly rejected the application Exh.17. Since the Appeal in question is awaiting hearing and final disposal, the Appellant/Petitioner would be at liberty to urge his contentions in respect

of the evidence that has come by way of the Court Commissioner at the hearing of the Appeal. If such contentions are urged, the Lower Appellate Court would consider them without being influenced by the instant order. With the aforesaid observations, the Writ Petition is dismissed.

[R.M. SAVANT, J]