

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

WRIT PETITION NO.1248 OF 2015

Tatya Vishnu Vavdhane

.. Petitioner

Versus

State of Maharashtra and others

.. Respondents

Ms. Kinnari Hingal i/by Mr. Sandip D. Shinde, for the Petitioner.

CORAM : R.M. SAVANT, J.

DATE : 7th OCTOBER, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 19.09.2014 passed by the Learned 2nd Joint Civil Judge, Junior Division, Niphad, by which order the application Exh.131 for appointment of the Court Commissioner came to be rejected. The said application was filed by the Petitioner/original Defendant in the suit in question who has filed the counterclaim claiming perpetual injunction against the Plaintiffs. The appointment of the Court Commissioner was sought so as to report as regards the present position of the Wells in question which were dug both by the Plaintiff and the Defendants in their respective lands. The Trial Court has rejected the said application on the ground that on the application of the Plaintiff the Court Commissioner by way of an advocate was appointed and the report of the said Court

Commissioner is on record. The Trial Court has also adverted to the application filed earlier by the Defendant being Exh.50 which was for the same relief i.e. appointment of the Court Commissioner which was rejected and the challenge raised to the said order did not meet with any success as this Hon'ble Court had permitted the Defendant to file an application at an appropriate stage. In my view, having regard to the reasons mentioned in the impugned order for rejection of the application for appointment of the Court Commissioner, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]

CERTIFICATE

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