

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

WRIT PETITION NO.667 OF 2015

Suresh @ Ramesh Dattatraya Patwardhan : Petitioner
versus
Madhukar Dattatray Patwardhan
since deceased through LRs
Sou.Vandana Ravindra Ghangurde daughter Nee
Vandana Madhukar Patwardhan and ors. : Respondents.

Mr. Pradip R Kadam for the Petitioner.

CORAM : R. M. SAVANT, J.
DATE : 28th January 2015

P.C.

1 The order dated 14/10/2014 passed by the learned Civil Judge, Senior Division, Ratnagiri allowing the Application (Exhibit 157) for the witness of the Plaintiff one Shri Vinayak Musale to be examined on commission is taken exception to by way of the above Petition.

2 The said Application (Exhibit 157) has been allowed by the Trial Court having regard to the fact that the said witness Shri Vinayak Musale is about 74 years of age and is suffering from Parkinson's disease and is therefore unable to walk properly and make natural movements. The Trial Court after allowing the said application has thereafter issued directions in the operative part of the impugned order amongst which is the direction that the commissioner to note down the objection raised by the parties at the time of

recording of evidence which will be decided at the time of final disposal of the suit.

3 In my view, having regard to the fact that the witness in question is unable to come to Court on account of his illness and also having regard to the directions which have been issued in the operative part of the impugned order, no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]