

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

909 WRIT PETITION NO. 11933 OF 2016

BALAJI PRABHAKAR DUTAL
VERSUS
NANDKUMAR BHASKARRAO MAHAJAN AND OTHERS

...
Advocate for Petitioner : Biradar R.D.

...
CORAM : T.V. NALAWADE, J.
DATED : 15th December, 2016.

ORDER :

1. The petition is filed to challenge the order made on Exh. 50 which was filed in Special Civil Suit No. 59/2014 for appointment of Court Commissioner. Heard the learned counsel for petitioner.

2. The suit is filed against the present petitioner by respondent - Nandkumar for relief of declaration of ownership and for injunction. Plaintiff is claiming to be owner of plot Nos.30, 31, 38 and 39. Present petitioner is claiming to be owner of plot Nos. 29, 30, 31 and 32. Thus, there is dispute over the ownership of plot Nos. 30 and 31 as both are claiming ownership over these two plots. Copy of lay out plan is produced on the record and it shows that many years back, it was prepared and the sale deeds were executed by the owners on the basis of lay

out plan. In view of these circumstances, there is virtually no need to get measurement of the plots. If under sale deed title is passed to the plaintiff, he will succeed and if defendants are able to prove that prior to plaintiff, title was passed to defendants, defendants will succeed. Thus, the application filed for appointment of Court Commissioner itself is misconceived. This Court holds that it is not possible to interfere in the order made by the Trial Court. In the result, the petition stands dismissed.

[T.V. NALAWADE, J.]

ssc/