

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2385 OF 2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Vijay R. Garad for the petitioner

CORAM : K. K. TATED, J.
DATE : JULY 20, 2016

P.C.:

- 1 Heard the learned counsel for the petitioner.
- 2 By this petition under Article 227 of the Constitution of India the Petitioner plaintiff challenges the order dated 9.10.2015 passed by 4th Joint Civil Judge, Junior Division, Pandharpur below Exhibit-17 in Regular Civil Suit No.302 of 2014 rejecting plaintiff's application under Order 26 Rule 9 of the Code of Civil Procedure, 1908 for appointment of Court Commissioner to measure the suit property i.e. Gut No.251 Patwarhan, Tal.Pandharpur, Dist. Solapur and demarcate the area of Gut No.251/B and Gut No.251/B1.
- 3 In the present proceeding, plaintiff filed Suit for injunction restraining respondent defendant from disturbing his possession and also made prayer for demarcation of boundaries of the suit

land.

4 The Trial Court dismissed the plaintiff's application on the ground that plaintiff is seeking final relief by preferring application below Exhibit-17 in terms of prayer clause (a) of the plaint. There is no dispute that prayer clause (a) of the plaint is for fixing boundaries of the suit land. Therefore, I do not find any reason to interfere with the order passed by Trial Court dated 9.10.2015. At the time of argument the learned counsel for the petitioner submit that even defendant has no objection if TILR is appointed to carry out the measurement of the suit premises. If that is the fact then liberty granted to the plaintiff to file appropriate application with the TILR for carrying out private measurement of the suit property.

5 In view of the above mentioned facts, Writ Petition stands dismissed. No order as to costs.

JUDGE