

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1382 OF 2014**

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.Sachin Chavan i/b. Shriram Kulkarni,
Advocate for Petitioners.

CORAM : R. G. KETKAR, J.
DATE : 17/11/2016

P.C.:

1. Heard Mr.Sachin Chavan, learned Counsel for the petitioners, at length .
2. By this Petition under Article 227 of the Constitution of India, the petitioners, hereinafter referred to as the 'defendants', have challenged the judgment and order dated 14.12.2013 passed by the learned Civil Judge, Junior Division, Junnar below Exhibit-36 in Regular Civil Suit No.212/2006. By that order, the learned trial Judge rejected the application made by the defendants for appointment of the Court Commissioner. While rejecting the application, in paragraph-5 the learned trial Judge noted that earlier application Exhibit-29 was made for appointment of the Court Commissioner. By order dated 3.1.2009, the

application was allowed. In pursuance thereof, the Court Commissioner carried out joint measurement and submitted report along with map. The learned trial Judge therefore observed that it is not necessary to appoint Court Commissioner again and the present application is with a view to collecting evidence.

3. For the reasons recorded in paragraph-5 of the impugned order, I do not find that the learned trial Judge has committed any error in rejecting the application. Hence, Petition fails and the same is dismissed.

4. It is made clear that where a decree is appealed from by the petitioners, any error, defect or irregularity in any order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal as contended by section 105(1) of Code of Civil Procedure, 1908.

(R. G. KETKAR, J.)