

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3435 OF 2015**

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.Kishor Patil, Advocate for Petitioner.
Ms. Devmani J. Shukla, Advocate for Respondents No.1, 2, 4 to 6.

CORAM : R. G. KETKAR, J.

DATE : 20/12/2016

P.C.:

1. Heard Mr.Kishor Patil, learned Counsel for the petitioner and Mr.Devmani Shukla, learned Counsel for the respondents No.1 to 6, at length.
2. By this Petition under Article 227 of the Constitution of India, the petitioner, hereinafter referred to as 'defendant No.3' has challenged the judgment and order dated 14.11.2014 passed by the learned Civil Judge, Senior division, Daman below Exhibit-39 in S.C.S. No.28/2010. By that order, the learned trial Judge rejected the application made by defendant No.3 under Order XXVI Rule 9 of C.P.C. for appointment of Court Commissioner.

3. Mr. Patil reiterated the submissions that were advanced before the trial Court.

4. Having regard to the prayers made by the plaintiff and for the reasons set out in paragraph-8 of the impugned order, I do not find that the learned trial Judge has committed any error in passing the impugned order. Hence, the Petition fails and the same is dismissed.

5. It is made clear that where a decree is challenged by the petitioner, any error, defect or irregularity in impugned order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of the proposed proceedings as contended by section 105(1) of C.P.C.

(R. G. KETKAR, J.)