

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

WRIT PETITION NO.5652/2016

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. R. D. Soni i/b. Ram & Co. for the petitioner

CORAM : K. K. TATED, J.

DATE : JULY 26, 2016

P.C.:

1. Mentioned. Not on board. At the request of learned counsel for the petitioner, the matter is taken on board for urgent orders.

2. By this petition under Article 227 of the Constitution of India the Petitioner plaintiff challenges the order dated 28.01.2016 passed by the Civil Judge, Junior Division Pimpri, Pune below Exhibit- 65 in Regular Civil Suit No. 28/2013 rejecting the application made by the plaintiff for appointment of Court Commissioner.

3. In the present proceedings, the plaintiff filed suit for injunction restraining the defendant from disturbing his possession. In that suit, the plaintiff made an application under Order XXXIX Rule 1

and 2 of the Code of Civil Procedure, 1908. During pendency of that application, the plaintiff made an application for appointment of Court Commissioner and same was rejected by the Trial Court on the ground that by way of commission, a party cannot be allowed to collect evidence against other party.

4. Considering the reasons given by the Trial Court in paragraph 4 and the judgment of this court in the matter of *Sanjay Namdeo Khandare Vs. Sahebrao Kachru Khandare & Ors. 2001(1) ALL MR 653*, particularly para 2 thereof, I do not find any substance in the Writ Petition. Hence, Writ Petition stands rejected.

JUDGE