

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 7718 OF 2016

Shri Kedarnath Mallinath Sakhare & ors. ... Petitioners

v/s

Sanjay Manik Kurnawal & ors. ... Respondents

Mr.Suhash Inamdar for the petitioners.

None present for the respondents.

Coram: N.M. Jamdar, J.

Dated: 29 August 2016

P.C.:

Not on board. Taken on production board in view of the *praecipe* filed by the Petitioners.

2 The Petitioners challenge the order passed by the Civil Judge, Junior Division, Solapur, rejecting the application taken out by the Petitioners/Defendants for appointment of the Court Commissioner. Considering the nature of the suit, the learned Civil Judge has found it not necessary to appoint a Court commissioner. There is no error in this conclusion as the suit is filed by the Respondents/Plaintiffs is for a declaration that the sale deed is void and that construction

carried out by the Respondents pursuant to the sale deed be removed. Therefore, the entire case is based on the validity of the sale deed. In the circumstances, when the suit has reached the stage of cross-examination, the learned Judge was right in not appointing the Court Commissioner on the ground that there is no necessity and the application is belated.

2 No interference is warranted. The writ petition is rejected.

(N. M. Jamdar, J.)