

Mr. I. M. Khairdi for Petitioner.

P.C. :

Heard Mr. Khairdi, learned Counsel for the petitioner at length.

2. By this Petition under Article 227 of the Constitution of India, petitioner, hereinafter referred to as 'defendant' has challenged the judgment and order dated 04.04.2016 passed by the learned Joint Civil Judge, Junior Division, Vadgaon-Maval below exhibit-17 in Regular Civil Suit No.232 of 2009. By that order, the learned trial Judge rejected the application made by the defendant for appointing Court Commissioner.

3. For the reasons recorded in paragraph 4 of the impugned order, I do not find that the learned trial Judge has committed any error. In paragraph 4, the learned trial Judge has observed that defendant can substantiate his contention that plaintiff has several commercial premises by adducing evidence. The Commissioner cannot be appointed for collecting the evidence. Hence, Petition fails and the same is dismissed. It is expressly made clear that where a decree is appealed from by the petitioner, any error, defect or irregularity in the impugned order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal as contemplated by Section 105(1) of C.P.C.

(R. G. KETKAR, J.)