

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3411 OF 2017

Layak Ali Mehboob Sab Masuldar ..PETITIONER

VERSUS

Gautam Motilal Aherkar ..RESPONDENT

....
Mr. A.N. Sabnis, Advocate h/f Mr. V.D. Gunale, Advocate for petitioner.
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**CORAM : M.S. SANKLECHA, J.
DATED : 26th APRIL, 2017**

ORDER :

1. This petition challenges the order dated 20th June, 2016 passed by the Joint Civil Judge, Junior Division, Umerga. By the impugned order, the petitioner's application for appointment of Court Commissioner was rejected.

2. The suit filed by the petitioner (original plaintiff) is for specific performance of agreement to sale and for injunction. The defendant has disputed the agreement for sale. The petitioner filed an application before the Trial Court, for appointment of Court Commissioner. This for inspecting the suit property to find out who is in possession of the same. The

impugned order has rejected the application on the settled position of law that the Court Commissioner cannot be appointed for collecting evidence for the parties. There is no issue of encroachment in this case.

3. In the above view, the impugned order does not call for any interference under Article 227 of the Constitution of India. Accordingly, the petition is dismissed. No order as to costs.

(M.S. SANKLECHA, J.)

SSD