

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 2107 OF 2017

Prashant s/o Santoshkumar Shukla
& others

Petitioners

Versus

Shivkumar s/o Nandkumar Pilaji
& another

Respondents

Mr. K.K. Kulkarni, advocate for the petitioners

CORAM : S.B.SHUKRE, J.

DATE : 22nd February, 2017

PER COURT:

1 Heard. Perused the impugned order. The application was basically for appointment of Court Commissioner to make local inspection to ascertain as to whether or not '*jawar*' crop was standing in the suit field. The trial Court has taken a view that seeking of appointment of Court Commissioner, for such purpose, is collecting of evidence, which is not permissible. The view, so taken by the trial Court, cannot be said to be arbitrary or against settled principles of law.

2 Learned Counsel for the petitioners has placed reliance on the judgment in the matter of **Kolhapuri Bandu Lakade Vs. Yallappa Chinappa Lakade (deceased, through Pooja @ Poojari Y. Lakade) & others**, reported in 2011 (3) ALL MR 599. The facts of the case of **Kolhapuri Bandu Lakade**, are different from the facts of this case. In that case, both the parties were claiming

ownership of same construction but stating it to be on different survey numbers and that is the reason why the Court thought that appointment of Court Commissioner is necessary.

3 The facts of instant case, as stated in earlier paragraph, are distinguishable from the facts in the reported matter and, therefore, this case would not be of any help to the cause of the petitioner.

4 Writ Petition stands dismissed summarily.

S.B.SHUKRE
JUDGE

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