

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

960 WRIT PETITION NO. 12992 OF 2017

SHAIKH MEENA SHAIKH ABDUL
VERSUS
SAYYED JAKER SAYYED SHAHABUDDIN AND ANOTHER

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Advocate for Petitioner : Mr. Dhiraj R. Jethliya.

Advocate for Respondent No.1 : Mr. V. D. Gunale.

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CORAM : **V. K. JADHAV, J.**

DATE : 08th November, 2017.

ORDER:

. I do not find any substance in this writ petition. There is no boundary dispute between the parties. The Respondent / Plaintiff has instituted the suit simplicitor for perpetual injunction. By way of counter claim, the Petitioner / Defendant has claimed the declaration about the easementary rights in respect of the use of the public road and the relief of mandatory injunction. On perusal of the application Exhibit 90, most particularly para 4 of the application, it appears that the Petitioner / Defendant sought the appointment of Court Commissioner on five points i.e. (a) to (e) as mentioned in para 4 of the application. On careful perusal of the said points, it appears that the Petitioner / original Defendant is intending to collect the evidence by filing application Exhibit 90. Furthermore, the suit is of the year 2011 and in the year 2013, the issues came to be framed. It further

appears that the Respondent / Plaintiff has completed his evidence and from April 2017 the suit is pending for the evidence of Petitioner / Defendant. Instead of adducing the evidence, the Petitioner / Defendant has filed this application at the belated stage in the month of June 2017. The learned Judge of the Trial Court has rightly rejected the application. I do not find any fault in the impugned order. There is no substance in the writ petition. The writ petition is hereby dismissed. No costs.

[V. K. JADHAV, J.]

ndm