

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

918 WRIT PETITION NO. 13986 OF 2017

SAYYADA SULTAN BEGUM SAYYAD MAHAMADALI
VERSUS
SAYYADA MEHRUNISSA BEGUM NASERALI AND ANOTHER

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Advocate for Petitioner : Mr. Prashant D. Suryawanshi.

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

DATE : 05th December, 2017.

ORDER:

. I find no substance in this writ petition. The Petitioner / original Plaintiff has instituted the suit for specific performance of contract and the decree of perpetual injunction. The Petitioner / Plaintiff in paragraph 5 of the plaint, stated about the construction on the suit property and the raw material kept in the open space. The Respondents / Defendants have denied the said fact in the written statement. By way of filing the application Exhibit 21, the Petitioner / Plaintiff wants to bring the age of the construction, storage of raw material, fact of light connection as well as the water tap connection on the suit property through the Court Commissioner. In that way, the Petitioner / Plaintiff wants to bring on record through the Court Commissioner as to who is in physical possession of the suit property. The Trial Court has rightly observed that by filing such application

Exhibit 21, the Plaintiff wants to collect the evidence and the same is not permissible under Order XXVI Rule 9 of the Code of Civil Procedure. I find no 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