

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4901 OF 2017

Sarosh Dadiba Bhowanagree

...Petitioner
(Org. Plaintiff)

Versus

Mitren Natwarlal Thakkar & Anr.

...Respondents
(Org. Defendants)

Mr.S.P. Srivastava for the Petitioner.

None present for the Respondents.

CORAM : M. S. SONAK, J.

DATE : 03rd OCTOBER 2017

P.C.

1. Heard Mr.S.P. Srivastava for the petitioner.

2. The challenge in this petition is to the order dated 21.11.2015, by which the petitioners' application for appointment of an architect as Court Commissioner and for certain interim reliefs came to be rejected.

3. In this case, the Court Commissioner was already appointed and such Court Commissioner, has submitted his report. Since, the petitioner is not satisfied with the Court Commissioner's

report, it is always open to him to file his objections to the same. However, the petitioner cannot insist appointment of an architect as the Commissioner all over and again. Thus construed, there is no infirmity in the making of the impugned order.

4. Further, the petitioner is always at liberty to privately engage a service of architect, get a report prepared and thereafter examine such architect as his witness. There is no necessity of appointing a Commissioner once again. The purpose for appointment of Commissioner is not to enable the party to lead evidence in support of their respective case.

5. For the aforesaid reasons, this petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)