

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10198 OF 2016

Narayan Kesaji Dhanaria ... Petitioner
Vs.
M/s. Sai Construction through Partner
Anil Tukaram Zhodage and others ... Respondents

WITH
WRIT PETITION NO.10204 OF 2016

Narayan Vitthal Jagtap ... Petitioner
Vs.
M/s. Sai Construction through Partner
Anil Tukaram Zhodage and others ... Respondents

Mr. Jaydeep Deo for Petitioner in both the Petitions.

CORAM : R. G. KETKAR, J.
DATE : FEBRUARY 13, 2017

P.C. :

Not on Board. At the request of Mr. Deo, learned Counsel for petitioner, taken up in the production Board.

2. Writ Petition No.10198 of 2016 takes exception to the judgment and order dated 07.07.2016 passed by the learned Joint Civil Judge, Junior Division, Pune below exhibit-62 in Regular Civil Suit No.5791 of 2012. By that order, the learned trial Judge rejected the application made by the petitioner under Order XVI, Rule 9 of the Code of Civil Procedure, 1908 (for short 'C.P.C.') for appointment of the Court Commissioner for local inspection.

3. Writ Petition No.10204 of 2016 takes exception to the judgment and order dated 07.07.2016 below exhibit-101 in Regular Civil Suit No.6497 of 2012. By that order, the learned trial Judge rejected the

application made by the petitioner under Order XVI, Rule 9 of C.P.C. for appointment of the Court Commissioner for local inspection.

4. After arguing the Petitions for quite some time, Mr. Deo submits that petitioners will not press these Petitions if the liberty is reserved as contemplated by Section 105(1) of C.P.C.

5. In view thereof, Petitions are disposed of as not pressed. It is made clear that where a decree is challenged by the petitioner, any error, defect or irregularity in the impugned order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of the proceedings as contemplated by Section 105 (1) of C.P.C.

(R. G. KETKAR, J.)

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