

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.419 OF 2017

Vijay Dattatray Mane ... Petitioner
Vs.
Anandrao Narayan More and others ... Respondents

Mr. V. S. Talkute for Petitioner.

CORAM : R. G. KETKAR, J.
DATE : JANUARY 12, 2017

P.C. :

Not on Board. At the request of Mr. Talkute, learned Counsel for petitioner, taken up for admission.

2. By this Petition under Article 227 of the Constitution of India, petitioner, hereinafter referred to as 'defendant No.1', has challenged the judgment and order dated 20.07.2016 below exhibit-22 as also the judgment and order dated 05.07.2016 below exhibit-80 passed by the learned 9th Joint Civil Judge Junior Division in Regular Civil Suit No.378 of 2008. By these orders, the Courts below have dismissed the applications filed by the defendant No.1 under Order 26, Rule 9 of C.P.C. for appointment of the Court Commissioner.

3. Having regard to the prayers made in the Suit, I do not find that the learned trial Judge has committed any error in dismissing the applications. Hence, Petition fails and the same is dismissed. It is, however, expressly made clear that where a decree is appealed from 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 appeal as contemplated by Section 105 (1) of C.P.C.

(R. G. KETKAR, J.)