

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11522 OF 2017

Shri. Bharatkumar Chandanmal Jain .. Petitioner

vs.

Kishor K. Jadhav .. Respondent

Mr. Vijay Gharat i/b Mr. D.P. Mhate for the Petitioner.
Mr. Ganesh Bhujbal for the Respondent.

CORAM : M. S. SONAK, J.
DATE : 06 NOVEMBER 2017.

P.C. :-

1] Heard Mr. Vijay Gharat i/b Mr. Damodar P. Mhate, learned counsel for the petitioner and Mr. Ganesh Bhujbal, learned counsel for the respondent.

2] The challenge in this petition is to the order dated 1st August 2017, by which, the Court Commissioner has been appointed to take proper measurement of the premises in respect of which the decree is under execution.

3] Mr. Gharat submits that before the impugned order was made no notice was issued to the judgment debtor and therefore, the impugned order is in violation of principle of natural justice.

4] On perusal of the impugned order, it is seen that the Court Commissioner has been appointed only to take proper measurements of the premises in question. After the Court Commissioner makes a report, there is no doubt that the copy of the same will be supplied to the petitioner and thereafter the petitioner will have opportunity to lodge objections, if any, to the Court Commissioner report. In any case, it is directed that the report of Court Commissioner is to be furnished to both parties, if they choose to, can lodge their objections to the Commissioner's report. In the facts and circumstances of the present case, this will constitute sufficient compliance with the principles of natural justice and fair play.

5] Accordingly, without interfering with the impugned order, the petition is disposed of with the aforesaid directions.

6] All concerned to act on the basis of an authenticated copy of this order.

(M. S. SONAK, J.)