

Sarnobat

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

WRIT PETITION NO. 603 OF 2015

Kolhapur Church Council & Anr.

.. Petitioners

Vs.

Commission on Ecumenical Mission
& Relations.

.. Respondent

Mr. R. A. Naik I/b Umesh R. Mankafure for the Petitioners.

CORAM : M. S. SANKLECHA, J.

DATE : 19th SEPTEMBER, 2017.

P. C. :

1. This petition under Article 227 of the Constitution of India challenges the order dated 8th July, 2014 passed by the Civil Judge, Junior Division, Sangli. By the impugned order dated 8th July, 2014 two applications filed by the Respondent herein under Exhibit 74 and 75 were disposed of.

2. The application at Exhibit 74 made by the Respondent was for the issuing court summons to the Court commissioner. This to enable cross examination of the report submitted by him. The application Exhibit 75 was for appointment of a new Court commissioner as the report filed by the first Court Commissioner was defective.

3. The impugned order rejected respondent's prayer for appointment of fresh Court Commissioner made at Exhibit 75 but granted a prayer for issuing summons to the Court Commissioner made at Exhibit 74.

4. Mr. Naik learned counsel appearing for the petitioner states that the grievance of the petitioner in respect of the impugned order is with regard to allowing the application at Exhibit 74 i.e. issuing of witness summons to the Court Commissioner for the purpose of being cross examined on the report filed by him.

5. The impugned order records the fact that the witness summons has to be served upon the Court Commissioner, as inspite of requests made by the parties to the Court Commissioner to file the various documents in support of his report, he has failed to do so. It is of on receipt of records which form the basis of the Court Commissioner record and his cross examination that the weightage to be given to the Court Commissioner's report can be determined. Nothing has been shown to me as to why the allowing of application at Exhibit 74 to call the Court Commissioner is not sustainable in law or amounts to improper exercise of discretion.

6. Therefore, in the above facts, the view taken by the impugned order is reasonable and possible view and would not warrant my interference under Article 227 of Constitution of India.

7. Accordingly, petition is dismissed. No order as to costs.

[M. S. SANKLECHA, J]