

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

**WRIT PETITION NO.2871 OF 2017**

Shri Malu Balu Dayare

... Petitioner

Vs.

Pandharinath Namdev Gavali & Ors.

... Respondents

Mr.R.S Datar for the Petitioner

**CORAM: Mrs.MRIDULA BHATKAR, J.  
DATED: APRIL 24, 2017**

**P.C. :**

1. Not on Board. Upon mentioning, taken on Board.
2. In this petition filed under Article 227 of the Constitution of India, the petitioner/original plaintiff has challenged the order dated 15.10.2016 passed by the Civil Judge, Junior Division, Karjat thereby rejecting the application made under Order 26 Rule 9 and 10A for appointment of Court Commissioner, which is marked exhibit 197. The plaintiff has filed a suit for declaration and injunction in respect of land admeasuring 3 hectares and 63 ares from a total area of 10 hectares and 90 ares in survey No.19/3. He has filed affidavit in lieu of examination in chief and is now in the witness box, facing cross-examination. He gave certain

admissions in respect of the TILR fixing boundaries. He also gave admission that the TILR refused the measure the said suit plot as there are no such shares defined in survey No.19/3 i.e., the suit land.

3. On perusal of the said order, it appears that though the suit was filed in 2001, the application for appointment of Court commissioner was made 14 years thereafter i.e., on 20.8.2016. In view of this, the said application was rightly rejected. The impugned order therefore cannot be faulted with.

4. Writ Petition is thus rejected.

**(MRIDULA BHATKAR, J.)**