

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

53 WRIT PETITION NO. 1027 OF 2015

RAMESH CHINDHU DHOBI  
VERSUS  
DILIP JAGANNATH CHAUDHARI AND OTHERS

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Advocate for Petitioner : Mr. Shah Subodh P.  
Advocate for Respondent No.1 : Mr. P. S. Paranjape  
Advocate for Respondent No.3 : Mr. D. S. Bagul

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**CORAM : V. K. JADHAV, J.**  
**DATED : 20<sup>th</sup> FEBRUARY, 2018**

**PER COURT:-**

1. The petitioner-original defendant has challenged the order passed by the trial Court for appointment of Court Commissioner on the basis of the application filed by respondent-plaintiff. The learned counsel for the petitioner-original defendant submits that the respondent-plaintiff has purchased the constructed suit property and as such, there is no question of making any encroachment over the suit property in any manner. The learned counsel submits that even though the pleadings are completed, the issues are yet to be framed and as such, the trial court has considered the appointment of Court Commissioner at a premature stage.

2. The learned counsel for the respondent-original plaintiff submits that during pendency of this Writ Petition, the D.I.L.R. Office has measured the suit property as directed by the trial Court and also submitted a report before the Court. The learned counsel submits that the respondent-plaintiff has also purchased the constructed portion standing in the suit property and it is not the case that the respondent-plaintiff has purchased the constructed portion only. The respondent-plaintiff has instituted the suit for removal of encroachment and recovery of possession of the encroached portion and as such, the order passed by the trial Court appointing the Court Commissioner is legal and proper. No interference is required.

3. The respondent-plaintiff has instituted the suit for removal of encroachment and recovery of possession of the encroached portion. The pleadings are completed and during pendency of this Writ Petition, as submitted by the learned counsel for the respondent-plaintiff, the measurement has been carried out in presence of both the parties and the report is also submitted before the trial Court. In view of the above, I am not inclined to interfere in the impugned order. Hence, the following order:

**ORDER**

- I. The Writ Petition is hereby dismissed. No costs.
- II. The Writ petition is accordingly disposed of.

**( V. K. JADHAV, J.)**

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