

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5051 OF 2017

BIBI BISMILLA KHAN ALIM BABA PATEL AND
ANOTHER
VERSUS
GAYASODDIN ABDUL KADA PARKAR

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Advocate for Petitioners : Mr. Shaikh Kayyum Najir
Advocate for Respondent : Mr Imale Ramesh R.

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CORAM : V.K. JADHAV, J.

Dated: April 17, 2018

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PER COURT :-

1. I find no substance in this writ petition.
2. The petitioners/original plaintiffs have instituted the suit for a relief of declaration and a decree of perpetual injunction. Respondent/defendant has strongly resisted the suit by filing his written statement. Pending the suit, petitioners/plaintiffs had filed an application exh.32 for appointment of the Court Commissioner. The Trial Court, by impugned order dated 17.12.2016 has rejected the said application. There is no boundary dispute or recovery of any encroached portion of the suit land. In the facts of the

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case, the application seeking appointment of the Court Commissioner is rightly treated as an application filed for collection of evidence in respect of the possession over the suit land. I do not find any fault in the impugned order passed by the trial court. Writ Petition accordingly dismissed. No costs.

(V.K. JADHAV, J.)

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