

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

WRIT PETITION NO. 4156 OF 2016

MOTICHAND HUKUMCHAND BUNDELKHANDI
VERSUS
RAMESH JUGRAJ JAIN DIED THROUGH LRS SHITAL RAMESH JAIN AND
OTHERS

...

Advocate for the Petitioners : Shri Gujar Gajendra L.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 31st January, 2018

Per Court:

1 The Petitioner is aggrieved by the order dated 22.02.2016 by which, the application Exhibit-148 filed by the Petitioner/ Plaintiff seeking the appointment of a court commissioner, has been rejected.

2 Reliance is placed upon the judgment delivered by this Court in the matter of Madhukar R. Jayle vs. Baskar Ramnath Shibad, 1996 (2) Bom. C.R. 408, wherein, this Court has concluded that the properties which are not subject matter of the suit, can be covered for considering the fixation of standard rent.

3 I have considered the submissions of the learned Advocate for the Petitioner.

4 The application Exhibit-148 has been filed by the Petitioner/

Plaintiff apparently for seeking the appointment of a Court Commissioner to visit the new property acquired and possessed by one of the Defendants, namely, Sachin Jain and for inspecting the plot, goods stored, all such documents as may be noticed while searching the shop and for preparation of a report and map. It is not mentioned in Exhibit-148 as to why the Plaintiff desires that the said newly acquired property of Sachin Jain should be covered under the concept of local inspection under Section 75 r/w Order 26 Rule 9 of the Code of Civil Procedure. The purpose for which the Court Commissioner is to be appointed is not spelt out in Exhibit-148. Moreover, it is settled law that unless justifiable reasons are put forth and it does not amount to collection of evidence, the application for appointment of a Court Commissioner cannot be entertained.

5 Considering the above, this Writ Petition being devoid of merit is, therefore, dismissed.

kps

(RAVINDRA V. GHUGE, J.)