

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

11 WRIT PETITION NO. 6965 OF 2017

SMT. GITABAI W/O YASHWANT PATIL
VERSUS

KRUSHNA KASHIRAM PITHODE AND OHTERS

.....

Advocate for Petitioner : Mr. Dheple Shantaram R.
Advocate for Respondent Nos. 1 to 4 : Mr. Vijay Patil

.....

CORAM : V. K. JADHAV, J.
DATED : 28th FEBRUARY, 2018

PER COURT:-

1. I do not find any substance in this Petition. The petitioner/original defendant no.1 has filed application Exhibit 29 for certain directions to the Court Commissioner already appointed by the trial Court by passing order below Exhibit 22. It is the case of the petitioner/defendant no.1 that the trial Court has appointed the T.I.L.R. as Court Commissioner for joint measurement of the land Gat No. 287 and since the road Mohadi-Palaskheda is situated towards the eastern side of the petitioner's field, necessary notice is also required to be issued to the Executive Engineer of the Public Works Department. It is also the contention of the petitioner/original defendant no.1 in the said application Exhibit 29 that after fixing boundary/limits of the said road, the land can be measured east-west in direction. The petitioner/original

defendant no.1 also prayed in the application Exhibit 29 that the Court Commissioner may be directed to mention the boundaries in the map and the report. The learned counsel for the petitioner submits that the respondent/original plaintiff has given 'no objection'.

2. I do not find any substance in the Writ Petition. The learned Judge of the trial Court has observed that the petitioner/original defendant no.1 has not filed any counter claim and it is not her contention that portion of her land is acquired/encroached by the Public Works Department towards the eastern side. Admittedly, the said road is adjacent to her field only and not to the field of the plaintiff and the other defendants. Thus, the application Exhibit 29 is unwanted and uncalled for. Even though 'no objection' is given by the other side, it is for the Court to think about giving directions to the Court Commissioner in the light of the pleadings of the parties to the Suit. The trial Court has rightly rejected the application Exhibit 29. No interference is required. The Writ Petition is accordingly dismissed. No costs.

(V. K. JADHAV, J.)