

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

924 WRIT PETITION NO. 7664 OF 2017

ANIL DATTRAO GUNDRAS AND OTHERS
VERSUS
GANPATI VENKATI GUNDRAS AND OTHERS

...

Advocate for Petitioners : Mr. Shrinivas H. Panchal.

Advocate for Respondent No.1 : Mr. S. B. Narwade.

...

CORAM : **V. K. JADHAV, J.**

DATE : 08th February, 2018.

ORDER:

. Heard finally with consent at admission.

2 I find no substance in this writ petition. The Respondent / original Plaintiff has instituted the suit bearing Special Civil Suit No.59 of 2016 for demarcation of the boundaries of the suit land and also for a decree of perpetual injunction. During the pendency of the suit, the Respondent / Plaintiff has filed an application Exhibit 29 for appointment of Court Commissioner and the Trial Court has allowed the said application Exhibit 29 and appointed T.I.L.R., Mudhkhed as a Court Commissioner for measurement of entire Gut No.160 situated at village Dongaon, Taluka Mudhkhed. It is to be mentioned here that both the parties are the owners in possession to the extent of their respective share in the land Gut No.160 itself.

3 Though the learned counsel for Petitioners has vehemently submitted that before deciding the application Exhibit 5, the Respondent / Plaintiff has submitted the application Exhibit 29 for appointment of Court Commissioner. However, it appears from the impugned order that the Petitioners have not raised the said point in their say filed overleaf and also failed to raise the specific ground in this writ petition.

4 In view of the above and the fact that the suit has been instituted for demarcation of the boundaries, I do not find any fault in the impugned order passed by the Trial Court. There is no substance in this writ petition. Hence, the following order:

ORDER

The writ petition is hereby dismissed. No costs.

[V. K. JADHAV, J.]

ndm