

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

903 WRIT PETITION NO. 12305 OF 2017

RAMESH BALIRAM MALI
VERSUS
ASHOK BALIRAM MALI AND ANOTHER

...

Advocate for Petitioner : Mr. L. V. Sangeet.

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CORAM : **V. K. JADHAV, J.**
DATE : 10th January, 2018.

ORDER:

. I do not find any substance in this writ petition. The Petitioner / original Defendant has filed an application Exhibit 50 for appointment of Court Commissioner before the Trial Court and since the Trial Court has rejected the said application, preferred this writ petition.

2 The learned counsel for Petitioner / Defendant submits that though the measurement has been carried out earlier and the Surveyor has been examined before the Court, there are some glaring procedural defects in carrying out the measurement and if the Trial Court relies on the measurement and the report submitted by such Surveyor by ignoring the said defects, the Defendant would suffer ultimately. It appears that the Respondents / original Plaintiffs have

instituted the suit for removal of encroachment in the suit property. It is thus, for the Respondents / Plaintiffs to prove their case and if there are some glaring procedural defects in carrying out the measurement, the Petitioner / Defendant is always at liberty to point out the Trial Court during the course of argument. The Petitioner / Defendant has not filed any counter claim and thus, the application Exhibit 50 seeking appointment of Court Commissioner has been rightly rejected by the Trial Court. No interference is required. The writ petition is devoid of any merit. The writ petition is accordingly dismissed. No costs.

[V. K. JADHAV, J.]

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