

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

WRIT PETITION NO. 13541 OF 2018

Sopan s/o Vithoba Dhavale
& others

... Petitioners

Versus

Ramdas s/o Vinayak Dhavale
& others

... Respondents

Mr. S.L. Bhapkar, Advocate for the Petitioners.

Coram : N.M. Jamdar, J.

Date : 6 December 2018

Per Court :

1. By this petition, the petitioners have challenged the order passed by the learned Civil Judge, Junior Division, Ashti, rejecting the application for appointment of a Court Commissioner.

2. The order is purely interlocutory and discretionary. The learned Civil Judge has observed that the suit is not in respect of boundary dispute and it is a suit for injunction and therefore, the burden is firstly on the plaintiff to prove his case. The general view

taken in respect of boundary dispute and the need to appoint the TILR as a Court Commissioner cannot automatically be extended to the present case. If during hearing of the suit, the learned Civil Judge comes to the conclusion that for just adjudication of the suit, inspection by the survey authorities is necessary, the Civil Judge has all the powers to appoint the authority as a Commissioner.

3. With these observations, the writ petition stands disposed of.

N.M. Jamdar, J.