

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

WRIT PETITION NO. 12118 OF 2018

VIMALBAI RAOSAHEB THETE AND OTHERS
VERSUS
GAYABAI MADHAV JADHAV AND OTHERS

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Advocate for Petitioners : Mr Garud N.C.

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CORAM : N.M. JAMDAR, J.

Dated: 21 November 2018

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ORAL ORDER :-

By this petition, the petitioner has challenged the order of appointment of Cadesterial surveyor of Deputy Superintendent of Land Records as Court Commissioner to prepare a map. Suit filed is in respect of encroachment. Learned counsel for the petitioner sought to contend that by appointment of the Court Commissioner, the respondents/plaintiffs are trying to collect the evidence.

2. In various decisions this Court has taken a view that an appointment of a Commissioner to measure the land in disputes relating to the boundaries is advisable. If the learned Civil Judge has

kept this fact in mind while appointing the Court Commissioner, it cannot be said that exercise of discretion is perverse so as to warrant interference under writ jurisdiction under article 227 of constitution of India. Petitioner, no doubt will be entitled to object the report of the Commissioner and also to cross examine the Commissioner as per law. Writ petition is accordingly rejected.

(N.M. JAMDAR, J.)

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aaa/-