

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

WRIT PETITION NO. 4777 OF 2018

Radheshyam S/o Ramniwas Junjunwala
and Anr.

...Petitioners

Versus

Raghuveersing S/o Shivsingh Pardeshi

...Respondent

.....

Mr. M.M. Kadt, Advocate for Petitioners

.....

CORAM : MANISH PITALE, J.

DATE: 29th SEPTEMBER, 2018

PER COURT :

1. Heard Mr. Kadt, the learned Counsel appearing for the petitioners.
2. By this Writ Petition, the petitioners have challenged the order dated 24.04.2017 passed by the Court below whereby Court Commissioner has been appointed for inspection of the suit land and it has been directed that the Court Commissioner shall inspect the spot and file report about possession of the party over the suit land by carrying out panchanama in presence of two witnesses other than the parties.

3. Since the parties to the litigation are claiming possession in the suit land, the appointment of the Court Commissioner in the present case would obviously be in aid of arriving at the finding as regards possession of either party in the suit land. Therefore, the impugned order passed by the Court below is only in the aid of justice, and no fault can be found with the same. It goes without saying that the Court Commissioner shall carry out the inspection of the suit land in the presence of the litigating parties apart from witnesses so as to ensure that the report submitted by the Court Commissioner brings out the truth regarding possession of either party in the suit land. In any case, the parties would be at liberty to raise such objections as would be available to them to the report filed by the Court Commissioner.

4. In this backdrop, there is no ground made out by the petitioners for exercise of writ jurisdiction by this Court.

5. Accordingly, the Writ Petition is dismissed.

(MANISH PITALE)
JUDGE

mta