

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1079 OF 2018

Pramod Rudragonda Patil & Ors.

...Petitioners

Versus

Rajgonda Appasaheb Viroje & Ors.

...Respondents

.....

Mr.Milind Deshmukh for the Petitioners.

Mr. Nagesh Y. Chavan for Respondent Nos. 1 and 2.

.....

CORAM: MRS.MRIDULA BHATKAR, J.

DATED: JULY 27, 2018

P.C. :

1. Upon urgent mentioning, taken on Production Board.
2. Rule. Rule made returnable forthwith. By consent of the parties, the Petition is heard finally and disposed of at the stage of admission.
3. This Writ Petition is filed invoking the writ jurisdiction of this Court under Article 227 of the Constitution of India, taking exception to the order dated 14th December, 2017 passed by the learned Civil Judge Senior Division, Sangli below Exhibit 34 in Regular Civil Suit No. 37 of 2017 thereby allowing the application filed by the plaintiffs for appointment of the Court Commissioner.

4. Respondent Nos. 1 and 2, who are the original plaintiffs, have moved an application under Order 26 Rule 9 of the Code of Civil Procedure, 1908 for appointment of the Court Commissioner.

5. The learned Counsel for the petitioners has submitted that the petitioners/ defendants resisted the said application filed by the plaintiffs by pointing out that the appointment of Court Commissioner will amount to collection of evidence. Hence, he prays that the order passed by the learned Judge of the trial Court be set aside.

6. Heard submissions. Perused impugned order. This pertains to the road. The learned Judge of the trial Court has passed well reasoned order. The learned Judge has also considered that this is not for collecting evidence and elucidating the matter. No interference is required in the order dated 14th December, 2017 passed by the learned Civil Judge, Senior Division, Sangli. Hence, Writ Petition is dismissed. Rule is discharged. The trial Court to proceed with the matter.

(MRIDULA BHATKAR, J.)