

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6593 OF 2018

Ashvini Ashok Patil

.. Petitioner

Versus

Ashatai Maruti Bhandigar & Ors.

.. Respondents

Mr. Rohan H. Barge for the Petitioner.

CORAM : K.K. TATED, J.

DATE : 28 NOVEMBER 2018.

P.C:-

. Heard learned Counsel Mr. Rohan Barge for the Petitioner.

2. By this Petition, original Judgment Debtor No.1 is challenging the order dated 10.04.2018 passed by 4th Joint Civil Judge Junior Division, Kolhapur below Exhibit-44 in Regular Darkhast No. 164 of 2014 rejecting Petitioner's application for appointment of Court Commissioner to measure the suit property.

3. It is to be noted that the Trial Court passed impugned order rejecting petitioner's application for appointment of court commissioner on the ground that encroached portion is described in a decree passed by trial court. The Executing Court also stated in paragraph 20 and 21 of the impugned order that at the time of passing decree, Court relied on Exhibits '100' and '106' i.e. Court Commissioner's report and map.

Therefore, there is no question of again appointing court commissioner to measure the suit property, that also in Execution Application.

4. Considering these facts, I do not find any substance in the present Writ Petition. Hence, Writ Petition stands rejected.

5. No order as to costs.

(K.K. TATED, J.)