

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8523 OF 2017

Purbima Agro Projects Pvt. Ltd. ... Petitioner
Vs.
Prashant Wamanrao Khandve & Ors. ... Respondents

Mr. Satyavrat Joshi a/w. Mr. Nitesh J. Mohite, Advocate for the petitioner.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 18th July, 2018.

P.C.:

Upon mentioning, taken on production board.

2. This Petition is directed against the order dated 5th April, 2017 below Exhibit 32 in Regular Civil Suit No. 173 of 2015 passed by the learned Joint Civil Judge Junior Division, Nashik Road at Nashik. In the said suit, the petitioner/original plaintiff has moved an application for appointment of Commissioner under Order 26 Rule 9 of the Code of Civil Procedure to visit and inspect the present position of the suit property and submit the report. The petitioner/plaintiff has also prayed that Commissioner be directed to take photographs of the suit property. The plaintiff has filed the suit for right of way from property no. 1C to approach on his property 1A and plaintiff wants to bring the evidence of road with the help of photographs.

3. The learned counsel for the petitioner has submitted that the trial Court has erroneously rejected the Application. The Commissioner should have been appointed for the purpose of elucidating the matter.

4. Read the impugned order. Considered the submissions of the learned counsel for the petitioner. Considering the nature of the suit, taking photographs will amount to collection of evidence. Hence, the trial Court has taken a correct view. No illegality is found in the order of the trial Court. Hence, Writ Petition is dismissed in limine.

(MRIDULA BHATKAR, J.)