

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 7886 OF 2018

Parshuram Mahadu Undre & Ors. ... Petitioners
Vs.
Baban Bhagwan Undre & Ors. ... Respondents

Mr. S.V. Sadavarte, Advocate for the petitioners.
Mr. Kuldeep S. Patil, Advocate for the respondents.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 26th July, 2018.

P.C.:

Upon mentioning, taken on production board.

2. Though by earlier order dated 23rd July, 2018, this Petition was clubbed with Writ Petition No. 7195 of 2016, today Writ Petition No. 7886 of 2018 is considered.

3. In this Writ Petition, the order dated 2nd July, 2018 passed by the 8th Joint Civil Judge Senior Division, Pune thereby rejecting the Application made by defendant nos. 1 to 8 under Order XXVI Rule 9 of the Code of Civil Procedure is challenged.

4. The learned counsel for the petitioners has submitted that the matter pertains to property, i.e., Gat No. 727/2. He submitted that there is another proceeding, i.e., R.C.S. No. 993 of 2009 which is

pending between the respondents inter se and in that suit, the Application for appointment of Court Commissioner was allowed and this is how he came to know about the pendency of Regular Civil Suit No. 993 of 2009. The learned counsel submitted that because of this measurement, the petitioners/defendant nos. 1 to 3 are affected as their property is going to be measured. The present Special Civil Suit No. 885 of 2017 was filed by respondent nos. 1 to 3 against the petitioners for possession and perpetual injunction and therefore, the petitioners have filed this Application for appointment of Court Commissioner.

5. Perused the original Application made by the petitioner dated 21st June, 2018 and the impugned order dated 2nd July, 2018 of the trial Court. The Application is vague and the order passed by the trial Court is correct. Hence, Writ Petition is dismissed.

6. The learned counsel for the petitioners submitted that the petitioners will file another Application for appointment of Court Commissioner with specific prayer. The trial Court to decide the said Application on merits.

(MRIDULA BHATKAR, J.)