

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

WRIT PETITION No.10867 OF 2017

Sachin Shantaram Kshatriya & anr. ... Petitioners

Vs.

Chandrabhan Dhondiba Katkade & anr. ... Respondents

Mr.V.V. Salunke for the Petitioners

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JULY 9, 2018**

P.C. :

1. Upon urgent mentioning, taken on Production Board.
2. The Writ Petition is directed against the order dated 10.8.2017 passed by the learned Civil Judge Junior Division, Sinnar, below exhibit 109 in Regular Civil Suit No.171 of 2007. The plaintiff has filed Suit for simpliciter injunction on the ground of encroachment. He moved application for appointment of the Court Commissioner under Order 26 Rule 9 of the Civil Procedure Code and the said application was rejected on the ground that earlier 6 months back, TILR was appointed and after measuring the suit premises, he had submitted report and it is on record.

3. The learned Counsel for the petitioner / original plaintiff submits that the encroachment is to be brought on record and that is not found in the first report of the TILR. He has further submitted that though there was status quo granted by the trial Court, the defendants have completed construction and that fact is also to be brought on record.

4. After going through the order and considering the relief prayed by the plaintiff, I am of the view that the order passed by the learned trial Judge, is a legal order and is not to be interfered with. Hence, the Writ Petition is dismissed in *limine*.

(MRIDULA BHATKAR, J.)