

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

WRIT PETITION NO. 10357 OF 2010

Arun Pandurang Kulkarni & Anr.

....Petitioners

V/s.

Vasant Limba Sawant & Ors.

....Respondents

Mr. Ajay A. Joshi for the petitioners.

Mr. Sandeep S. Salunkhe for respondent nos.1 to 3.

Mr. Milind Prabhune i/b. Sarang S. Aradhye for respondent no.4.

CORAM : MRS. MRIDULA BHATKAR, J.

DATED : 13TH JUNE, 2018.

P.C.:

. By this petition, the petitioners have challenged the order dated 12th October, 2010 passed by the Joint Civil Judge, Junior Division, Pandharpur thereby rejecting the application below Exhibit – 30 in Regular Civil Suit No.267 of 2010 for appointment of the Court Commissioner.

2. The prayer was made to appoint the Court Commissioner to find out whether the respondents/defendants have cut the trees on the land of the plaintiff and have constructed a new road. This order was

passed in the year 2010. After lapse of eight years, nobody can say whether the road is new not. The Court Commissioner also cannot give any opinion whether the road is new or old. However, the learned counsel for the defendants/respondents points out that the say given by the defendants to the application for appointment of the Court Commissioner wherein it is mentioned that a road was created on the land pursuant to the order passed by the Tahsildar in Rasta Case No.16 of 2009.

3. Considering the above submissions and the time gap, nothing survives in this petition. The Trial Court to proceed with the matter and endeavour to dispose the suit on or before 31th December, 2018.

4. Writ Petition stands disposed of.

(MRS. MRIDULA BHATKAR, J.)