

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

**WRIT PETITION NO.1782 OF 2018**

Mahadev Krishna Kirdak And Anr. ... Petitioners

Versus

Nagesh Audumber Nashte ... Respondent

....

Mr.Ajit Hon i/by Mr.Pramod N. Patil for the Petitioners.

....

***CORAM : Ravindra V. Ghuge, J.***

***DATE : 16 March 2018***

**P.C. :**

1. The Petitioners/original Defendants are aggrieved by the order dated 22 February 2017 passed by the Trial Court in R.C.S. No.868 of 2016 by which, the application for appointment of Court Commissioner below Exh.14 has been rejected.

2. Learned Counsel for the Petitioners strenuously criticized the impugned order and has drawn my attention to the 9 grounds formulated by them in the memo of the Petition.

3. It is undisputed that the Petitioners had filed Exhibit 14 before the filing of the Written Statement. They wanted the Court Commissioner to be appointed to inspect the said land and find out whether the crop that has grown in the said land is Maize or Bajara.

4. It is settled law that the Court Commissioner cannot be appointed for collecting evidence. It is equally settled that the

Court Commissioner is not to be appointed until the recording of oral evidence. The assistance of a Court Commissioner can be taken by the Court after recording of oral evidence and after concluding that some information needs to be elucidated through the appointment of the Court Commissioner. It is also settled that the Court Commissioner would be appointed in the event of there being boundary dispute and for fixing the boundaries.

5. In the light of the above, I do not find that the impugned order can be termed as being perverse or erroneous. Thus, Petition being devoid of merits, is dismissed.

***(Ravindra V. Ghuge, J.)***