

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

901 WRIT PETITION NO.11955 OF 2014

RAJU @ RAJENDRA CHANDARRAO SAMUDRE AND OTHERS
VERSUS
GUNWANT MAHIPATRAO DESHMUKH AND OTHERS

...

Advocate for Petitioners : Shri Wakure Sanjay A.
Advocate for Respondents 1 to 3 : Shri Salgare Sachin J.

...

CORAM : RAVINDRA V. GHUGE, J.
Dated: March 19, 2019

...

PER COURT :-

1. The petitioners are aggrieved by the order dated 28.3.2014, passed by the appellate Court, by which, application Exhibit 23, filed by the petitioners / defendants, seeking appointment of a Court Commissioner has been rejected.
2. By order dated 23.2.2015, this Court has stayed the hearing in RCA No.305 of 2010.
3. I have heard the learned Advocates for the respective sides. I have gone through the petition paper book with their assistance and have considered the grounds formulated by the petitioners in the memo of the petition.

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

2- WRIT PETITION NO.11955 OF 2014

4. Two factors emerging from the record would indicate that the impugned order is not a perverse or erroneous order. Firstly, that an Advocate was appointed as a Court Commissioner. After he submitted his report and the map, he passed away before he could be examined. Subsequently, the Taluka Inspector of Land Records (TILR) was appointed as a Court Commissioner. He submitted his report and the map at Exhibit 124. He was examined at Exhibit 126. As such, there is a report of TILR on record. Secondly, the petitioners desired to locate the Babul trees in the suit property with the aid of a Court Commissioner. This would amount to collecting evidence.

5. In view of the above, the impugned order does not call for any interference. This petition, being devoid of merits is dismissed.

6. The litigating sides shall appear before the appellate Court, on 1.4.2019 and shall advance their oral submissions. No adjournment shall be sought. The appellate Court shall decide RCA No.305 of 2010 as expeditiously as possible and in any case on/or before the 15.6.2019.

(RAVINDRA V. GHUGE, J.)

...