

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8686 OF 2017**

Maruti Manohar Rathod & Anr. .. Petitioners

Versus

Snajay Ramesh Rathod .. Respondent

Mr. R.S. Sinhasane a/w T.N. Khairnar I/b U.R. Mankapure for petitioners.

CORAM : K.K. TATED, J.

DATE : 20 FEBRUARY 2019.

P.C:-

. Heard learned Counsel for the petitioners.

2. By this writ petition under Article 227 of the Constitution of India, petitioner/original defendant is challenging the order dated 22.06.2017 passed by Civil Judge, Junior Division, Peth Vadgaon below Exhibit-32 in Regular Civil Suit No.56 of 2016 rejecting petitioner/original defendant's application for appointment of Court Commissioner for local investigation and for submitting the report about the suit property.

3. It is to be noted that, in the present proceedings, the respondent/original plaintiff filed Regular Civil Suit No.56 of 2016 for an order of injunction restraining the defendants from

disturbing his possession and or carrying out any construction on the suit property.

4. Bare reading of the application below Exhibit-32 filed by the petitioner for appointment of Court Commissioner shows that they want to bring the certain documents on record which shows that respondents/original plaintiffs are not owner of the suit property. The Court Commissioner cannot be appointed to ascertain the ownership of the property. Apart from that the trial Court has considered all the issues at the time of rejecting petitioner's application for appointment of Court Commissioner. Therefore, I do not find any reason to entertain the present writ petition.

5. Hence, writ petition stands rejected.

6. No order as to costs.

(K.K.TATED, J.)