

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10440 OF 2014

Vasant S. Kshirsagar .. Petitioner
vs.
Kishan S. Kshirsagar and ors. .. Respondents

Ms Sujata S. Mogre for the Petitioner.

CORAM : M. S. SONAK, J.
DATE : 12 APRIL 2019.

P.C. :-

1] Heard Ms S.S. Mogre, learned counsel for the petitioner.

2] The challenge in this petition is to the order dated 1st April 2014 by which the learned Trial Judge has rejected the petitioner's application seeking appointment of Court Commissioner. Thereafter, the petitioner sought for review of the said order. Even the same was rejected on 7th August 2014, hence the present petition.

3] Ms S.S. Mogre, learned counsel for the petitioner, submits that the appointment of Court Commissioner is necessary to verify the position at site. She points out that

there is the issue of inclusion of access in one of the plots which form the part of suit property. She points out that the level of one of the plots of the suit property is quite low and even this aspect has factually asserted. Therefore, she submits that it is necessary to appoint the Court Commissioner.

4] According to me, there is no necessity to appoint any Court Commissioner. It is always open to the petitioner to depose in the matter or to engage services of expert and thereafter examine such expert as the petitioner's witness. The purpose of appointment of Court Commissioner is not to collect evidence for the parties. In the present case, learned Trial Judge has exercised discretion against the appointment of Court Commissioner. The discretion has not been exercised unreasonably.

5] Therefore, there is no case made out to interfere with the impugned order. Accordingly, this petition is liable to be dismissed and is hereby dismissed.

(M. S. SONAK, J.)