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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3257 OF 2017

Purshottam Ramchandra Divate & Ors.	..Petitioners.
V/s.	
Smt. Anandibai Ganpatil Divati & Ors.	..Respondents.

Mr.Mahindra B.Deshmukh for the petitioners.

None for the respondents.

CORAM : M.S.SONAK, J.

DATE : APRIL 22, 2019

P.C.:-

Heard Mr.Deshmukh, learned counsel for the petitioners.

2. Challenge in this petition is to the order dated October 6, 2016 by which learned trial Judge has ordered the appointment of Court Commissioner.

3. Mr.Deshmukh, learned counsel for the petitioners points out that in the plaint there is no whisper of any encroachment. He points out that the suit is only for declaration and injunction and in such a situation, the learned trial Judge has exceeded jurisdiction in appointing a Court Commissioner.

4. The learned trial Judge has exercised discretion in the

matter. It cannot be said that the discretion has been exercised unreasonably. In the application seeking appointment of Court Commissioner, there is reference to the alleged encroachment which might affect the right to air and light. At this stage, it is not necessary to go into the issue as to whether the allegations are correct or incorrect. If the learned trial Judge has opined that the appointment of Court Commissioner would assist the decision making, it cannot be said that the discretion has been exercised in an unreasonable manner so as to warrant interference in the exercise of supervisory jurisdiction.

5. For the aforesaid reasons, this petition is dismissed. There shall be no order as to costs.

(M.S.SONAK, J.)