

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

WRIT PETITION NO.5330 OF 2016

Fakira Sayaji Karpe
(Decd.) Through LR.

Mr. Bhagavan Karpe

... Petitioner

Vs

Chief Officer,
Sinnar Municipal Council
and Ors.

... Respondents

...

Mr. Rameshwar N. Gite for the Petitioner.

CORAM : SANDEEP K. SHINDE J.

DATE : JUNE 3, 2019

P.C. :

Heard learned counsel for the petitioner.

2 Petitioner's Regular Civil Suit seeking removal of encroachment against the Sinnar Municipal Council is pending in the Court of Civil Judge, Junior Division, Sinnar since 2005. In the subject suit, application for appointment of Court Commissioner was filed below Exhibit 53. The learned Judge rejected the same on 11th January, 2016. Aggrieved by the said order, this Petition is preferred under Article 227 of the Constitution of India.

3 The Petitioner claims to be owner of the property bearing City Survey No.4138. He alleged that unknown persons have encroached over the public road owned by the Sinnar Municipal Council, Sinnar and thereby blocked his access to his property. It may be stated that respondent nos.2 and 3, who are the defendants though impleaded but no relief is sought against them. The learned counsel for the petitioner would, however, orally submit that defendant nos.2 and 3 have encroached over the public road owned by the Sinnar Municipal Council. Submission cannot be accepted and it is rejected.

4 The learned trial Judge rejected the application also on the ground that Court Commissioner cannot be appointed for collecting the evidence.

5 The Trial Court has not committed any jurisdictional error and thus, no interference is called for in supervisory jurisdiction of this Court.

6 Petition is, therefore, dismissed.

(SANDEEP K. SHINDE, J.)

