

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8032 OF 2018

Kedu P. Dhakrao and ors. .. Petitioners
vs.
Madhav M. Jadhav .. Respondent

Mr. Sugandh B. Deshmukh for the Petitioners.
Ms Avanti Inamdar I/b Mr. R.N. Gite for the Respondent.

CORAM : M. S. SONAK, J.
DATE : 16 APRIL 2019.

P.C. :-

1] Heard Mr. S.B. Deshmukh, learned counsel for the petitioners and Ms Avanti Inamdar, learned counsel for the respondent.

2] The challenge in this petition is to the order dated 17th February 2018 by which learned Trial Judge has dismissed the petitioners' application seeking appointment of Court Commissioner.

3] From perusal of the impugned order, it is apparent that learned Trial Judge has exercised discretion fairly. This is not a case where the appointment of Commissioner will assists in

any manner the decision in the suit. The Court Commissioner cannot be appointed to enable the parties to collect evidence on their behalf.

4] In this case, if there is indeed any issue of measurements involved, nothing prevents the petitioners from engaging an expert/surveyor to take measurements and prepare a report. Such surveyor/expert can thereafter, be examined as witness on behalf of the petitioners-plaintiffs so that the respondent has an opportunity to cross-examine such expert/surveyor.

5] Similar option is also available to the respondent in the suit, if he so desires.

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

7] All concerned to act upon an authenticated copy of this order.

(M. S. SONAK, J.)