

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

WRIT PETITION NO.9651 OF 2017

Bapuso Dyanu Dandawate

.. Petitioner

V/s.

Mahadev Dadu Sutar and Ors.

.. Respondents

Mr.Ashish Pawar I/b Ms.Megha Jari with Mr. Sunil Jadu I/b
Mr.Vinayak R. Salokhe for the petitioner

Mr.Manoj A. Patil for the respondent no.1

CORAM: K.K. TATED, J
DATED : JANUARY 21, 2019

P.C. :

1 Heard.

2 By this petition under Article 227 of the Constitution of India, the Petitioner challenges the order dated 14.03.2017 passed by Joint Civil Judge, Junior Division, Kagal below Exhibit- 28 in Regular Civil Appeal No.33 of 2016 rejecting plaintiff's Application under Order XXVI Rule 9 of the Code of Civil Procedure, 1908 for appointment of Court Commissioner.

3 It is to be noted that in the present proceedings, Petitioner original plaintiff filed Suit for injunction on the basis of Court Commissioner's report and map prepared in Regular Civil Suit

No. 142 of 2005. When Trial Court rejected Petitioner's Application below Exhibit-5 for order of injunction on 13.04.2016, immediately, thereafter, Petitioner filed present Application on 02.07.2016 for appointment of Court Commissioner. These facts are considered by the Trial Court at the time of passing impugned order dated 14.03.2017. In any case, initially Petitioner relied on Court Commissioner's report and map and filed Suit. Again for the same cause of action he has filed Application for court commissioner. Therefore, there is no question of allowing such Application. Hence, I do not find any substance in the present Writ Petition.

4 Hence, Writ Petition stands rejected.

(K.K. TATED, J.)