

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

WRIT PETITION NO.13702 OF 2017

Shilpa Shrirang Phadtare ... Petitioner
Vs.
Manohar Rasuji Bhadhirge & ors. ... Respondents
.....
Mr. Uday P. Warunjikar a/w Mr. Siddhesh Pilankar for the
Petitioner.

.....

CORAM : M. S. KARNIK, J.

DATE : 9th SEPTEMBER, 2019.

P. C.:

1. Heard learned counsel for the petitioner.
2. The petitioner is the original plaintiff had filed a suit for injunction restraining the defendants from interfering with their possession over the suit property. The plaintiff had earlier filed an application below Exhibit 155 for appointment of Court Commissioner. The Trial Court by the order dated 2.2.2015 allowed the application for appointment of Court Commissioner.
3. In view of the order dated 2.2.2015 passed below Exhibit 155 the Court Commissioner submitted his report. It is the

contention of the plaintiff that the Court Commissioner did not submit a proper report. The plaintiff filed an application at Exhibit 168 for appropriate directions to the Court Commissioner to submit a fresh report. This application is rejected by the Trial Court vide impugned order dated 4.3.2017. The Trial Court observed that whether the Court Commissioner's report is proper or not can be decided after the evidence is recorded. I see no reason to interfere with the order passed by the Trial Court. It is however made clear that after the evidence is recorded, if the petitioner makes an application for appointment of Court Commissioner, the same can be considered on its own merits and in accordance with law.

4. The petition is rejected with no order as to costs.

(M. S. KARNIK, J.)