

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 500/2019

Milind S/o Rupdash Janbandhu

..VS..

Mitaramdas S/o Motiram Thakre & anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.D. Muley, Advocate for the petitioner

CORAM : Z.A.HAQ, J.
DATED : 01/02/2019

Heard.

The original defendant no. 1 has challenged the order passed by the trial Court by which the application (Exh. 42) filed by the respondent no. 1 under Order 26 Rule 9 of the Code of Civil Procedure, is allowed. The learned trial Judge has appointed a Court Commissioner to carry out the joint measurement of Plot Nos. 46 and 17. The contention of the petitioner – defendant no. 1 is that the plaintiff has sought appointment of the Court Commissioner only to collect evidence.

The learned trial Judge has dealt with the relevant aspects in para nos. 5 and 6 of the impugned order. It is recorded that looking to the nature of dispute, the Commissioner's report would assist the Court in deciding the issue/issues more effectively.

After going through the impugned order and hearing the learned advocate for the petitioner, I find that the learned trial Judge has neither committed any illegality nor has exceeded his jurisdiction by appointing the Court Commissioner.

I see no reason to interfere with the impugned order.

The writ petition is **dismissed**. No costs.

JUDGE

Ansari