

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

WRIT PETITION NO.2741/2017

Dhyneshwar S/o Vitthalrao Chinchone

..Vs..

Sou Nirmala Vijay Awasthi and others

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

Court's or Judge's orders

Shri I.J. Damle, Advocate Advocate for the petitioner.
Shri N.S. Bhattad, Advocate for respondent No.1.

CORAM : Z.A. HAQ, J.

DATED : 7.6.2019.

Heard.

The original defendant No.3 has challenged the order passed by the trial Court allowing the application (Exh. No.54) filed by the plaintiff under Order 26 Rule 9 read with Order 39 Rule 7 of the Code of Civil Procedure.

The plaintiff has filed civil suit praying for decree for removal of encroachment from open plot. Looking to the pleadings of the contesting parties, learned trial Judge felt it appropriate to grant the prayer made by the plaintiff by the application (Exh. No.54) and to appoint City Survey Officer as the Court Commissioner to carry out the measurement of the plots of plaintiff and defendants described in the plaint. The appointment of Court Commissioner by the impugned order for the above said purpose is in consonance with the legal position and in my view, learned trial Judge has not

committed any illegality or error of jurisdiction by appointing Court Commissioner. I see no reason to interfere with the impugned order. The writ petition is **dismissed**. No costs.

JUDGE

Tambaskar.