

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10477 OF 2019**

Dattatraya Gulab Masal & Ors.	...Petitioners
Versus	
Baburao Sambhaji Masal & Ors.	...Respondents

Mr. Rupesh A. Zade for the Petitioners

None for the Respondents

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 4th MARCH 2020

P.C. :

1 Heard learned counsel for the petitioner.

2 By this petition, the petitioners have impugned the order dated 18th January 2019 passed by the learned 9th Joint Civil Judge, Junior Division, Baramati, Pune, below Exhibit 40 in R.C.S No. 311/2015, by which, the learned Judge was pleased to reject the petitioners' application seeking reappointment of a Court Commissioner.

3 Learned counsel for the petitioners submits that the Court Commissioner needs to be reappointed to find out whether there is an alternate road available to the plaintiffs. He submits that the Court Commissioner has not acted as per the direction given by the trial Court.

4 Perused the papers, including the impugned order. It appears that the Court Commissioner was appointed by the trial Court, pursuant to which, the Court Commissioner submitted his report on 3rd August 2018. It appears that the petitioners (original defendants) had not produced any document on record to show how the Court Commissioner's report was incorrect. Having regard to the aforesaid, the trial Court rightly rejected the petitioners' application for reappointment of Court Commissioner. No infirmity can be found in the said order. Accordingly, the petition is dismissed.

5 Needless to state that it is always open for the petitioners to examine the Court Commissioner, if he so desires, in accordance with law.

REVATI MOHITE DERE, J.