

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 612 OF 2021**

Sadashiv Vithoba Dondale

.... Petitioner.

V/s

Arjun Namdev Solankar

.... Respondent.

Mr. Kuldeep U. Nikam for the Petitioner.

CORAM: NITIN W. SAMBRE, J.

DATE: FEBRUARY 25, 2021

P.C.:-

1] In a suit for removal of encroachment and correction of boundaries, application-Exhibit-105 for appointment of TILR as Court Commissioner under Order 26 Rule 9 is rejected by the impugned order.

2] Submissions are, in the existing report of the Court Commissioner certain incorrect notings about boundaries are made and that being so, report be directed to be corrected by the said Commissioner or there has to be fresh appointment of the Commissioner.

3] Fresh appointment of the Commissioner, as is prayed vide Exhibit-105, cannot be ordered unless and until existing report of the Commissioner, as has been objected by the Petitioner, is set aside or rejected pursuant to the objections raised by the Petitioner.

4] In that view of the matter, keeping the option open to the Petitioner to move for fresh appointment of Commissioner at latter stage after adjudication on the report of the Commissioner which is already there on record, no indulgence is called for. Petition fails and same stands dismissed.

(NITIN W. SAMBRE, J.)