

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4 OF 2020**

Shri Dattatraya Sampat Jadhav and Anr. Petitioners.

V/s

Indu @ Indrabai Jyotiram Jadhav

(Deceased) Through her LRs

1A] Mohan Jyotiram Jadhav and Ors. Respondents.

Mr. Rushikesh C. Barge a/w Mr. Aditya Gore for the Petitioners.

Mr. Sameer S. Kadam for Respondent Nos. 1A to 1F.

CORAM: NITIN W. SAMBRE, J.

DATE: FEBRUARY 9, 2021

P.C.:-

1] Application-Exhibit-64 moved by the Respondent/Plaintiff came to be allowed by the order impugned, thereby appointing Court Commissioner. TILR who is appointed as Court Commissioner is directed to measure the suit land so also the land of the Petitioner.

2] Submissions are, already in the earlier round, Court Commissioner was appointed.

3] As far as appointment of Court Commissioner by way of impugned order is concerned, same is based on Sale Deed dated

27/11/1950. According to the learned Counsel for the Petitioners, but for the aforesaid Sale Deed, there is hardly any material which substantiates prayer for appointment of Court Commissioner.

4] The learned Counsel for the Respondents supports the order impugned.

5] Facts remains that in earlier order of appointment of Court Commissioner, an expert like TILR was not appointed. The suit is for removal of encroachment and for possession also and that being so, appointment of TILR as Court Commissioner at the behest of the Plaintiff that too for measurement of land of both parties is very much justified.

6] In that view of the matter, no case for interference in the impugned order is made out. Petition as such fails and stands dismissed.

(NITIN W. SAMBRE, J.)