

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5583 OF 2019

Rajendra D. Bhosale

.. Petitioner

v/s.

Babaso Aappa Bhosale & Ors.

.. Respondents

Mr. Balwant V. Salunkhe for the Petitioner.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 30th MARCH, 2021.**

P.C. :

1. The Petitioner herein has assailed the Order dated 5.10.2018, whereby the learned Judge, Jath, dismissed the application for appointment of Commissioner.
2. The Respondent herein has filed a suit for declaration that they are the owners in possession of the property, more particularly described in paragraph nos.8(a) to 8(m) of the plaint, and further to restrain the Petitioners herein to remove the boundary stones on the southern boundary of the property. The Petitioners herein have filed their written statement claiming that the property has not been partitioned and that the Respondent-plaintiff had made a false statement that he is in possession of the property. The Petitioner had filed an application for appointment of Commissioner so as to ascertain the factual position alleging that the Plaintiff had not

disclosed the correct facts and that the appointment of Commissioner is necessary to ascertain the factual position.

3. Suffice it to say that the object of appointing Commissioner is not to collect evidence. It is for the parties to adduce evidence and establish their respective claims. The grounds stated in the application do not warrant appointment of Commissioner. Hence the impugned order does not warrant any interference. Petition stands dismissed.

(ANUJA PRABHUDESSAI, J.)