

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

WRIT PETITION NO. 12192 OF 2019

Rameshwar Khandu Kolhe

...Petitioner

Versus

Vaijinath Prabhu Gore & Ors.

...Respondents

.....

Shri. M. U. Shelke, Advocate for the petitioner

Shri. V. C. Patil, Advocate for respondent nos. 1 and 2

.....

CORAM : BHARATI H. DANGRE, J.

DATE : FEBRUARY 10TH, 2022

PER COURT : -

1. On being confronted with the position to the effect that while passing the order appointing the Court Commissioner, the learned Judge has recorded the say of the present petitioner, who is defendant no. 3 in the suit, who had stated that it is not only the land of the plaintiff which has to be measured but even the land of the defendants will have to be measured. Taking the said clue the application was allowed on 03.12.2017. The order was implemented and the Court Commissioner has submitted it's report. The petitioner objected to the measurement and, therefore, moved an application vide Exh. 36, which came to be rejected and he approached this Court in a writ petition which he withdrew, with liberty to avail the challenge to the order appointing the Court Commissioner itself.

2. Since I am not inclined to grant the present writ petition, in the wake of the consent which has been noted for appointment of Court Commissioner for measuring the land of the plaintiff as well as the defendants and since the report has already been submitted to the Court, the learned Counsel states that he shall withdraw the writ petition by reserving his liberty to file an appropriate application for recording his objections to the report of the Court Commissioner. The writ petition is permitted to be withdrawn and disposed off with liberty as prayed for.

[BHARATI H. DANGRE]
JUDGE