

SANTOSH BHAGWAT KECHE AND ORSPETITIONERS
V/s.
POPAT DNYANDEO GHADAGE AND ORSRESPONDENTS

CORAM : NITIN W. SAMBRE, J.
DATE: APRIL 19, 2022.

1) Petition is by Defendant to R.C.S. No. 19/2016. Prayer of Respondent-Plaintiff for appointment of Court Commissioner is allowed vide order impugned dated 26/11/2019.

2) The submissions of learned counsel for the Petitioners are, Application Exh. 64 for appointment of Court Commissioner is moved with an intention to delay the Suit proceedings as Tahsildar has already drawn spot Panchanama, there was no justification for appointment of Court Commissioner. In addition, the contentions are, measurement fees are not deposited for last about more than two and half years.

3) I have appreciated said submissions.

- 4) Suit is for setting aside of an order passed by the Mamlatdar granting right of way.
- 5) In the aforesaid background, even if the hearing of the Suit is expedited, that by itself will not preclude the Respondent-Plaintiff from taking out an Application for measurement by appointing Court Commissioner.
- 6) However, if the contention as regards non cooperation of the Respondent-Plaintiff in deciding the Suit expeditiously viz. not depositing measurement fees as was directed by the Court below vide impugned order is appreciated, the Trial Court is expected to proceed ahead with the Suit, particularly having regard to orders of this Court thereby expediting the Suit. The Trial Court as such shall be sensitive to the necessary consequence of non-compliance of impugned order by Respondent-Plaintiff.
- 7) With above observations, I hardly see any reason which warrants interference in the impugned order.
- 8) Petition stands rejected.

[NITIN W. SAMBRE, J.]