

Anand

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

WRIT PETITION 7051 OF 2019

Shivappa Sidram Kawchale .Petitioner

Vs.

Kallappa Khandappa Patil (Birasdar) .Respondents
& ors.

Mr. Ajay A. Joshi, Advocate, for the Petitioner
None for the Respondents

CORAM : ROHIT B. DEO, J.

DATE : 20.07.2022

P. C.

. The Petitioner is the Defendant in R.C.S. 124 of 2016, who is aggrieved by the order dated 15.02.2019 rendered by the learned trial Judge, whereby the Court Commissioner is appointed to carry out joint measurement of the suit property.

2. The learned counsel for the Petitioner fairly points out that the commission is executed and the report is filed on record.

3. Even de hors the fact that the commission is executed, I note from the order impugned that the Commissioner is appointed to carry out the joint measurement, since according to the learned trial Judge, the controversy pertains to encroachment and boundaries and that in the absence of the report of the Cadestral Surveyor, the evidence of the parties may not be sufficient to ascertain the truth.

4. I see no error in the observations recorded in the order impugned.

5. The Petition is dismissed.

(ROHIT B. DEO, J.)