

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

WRIT PETITION NO.211 OF 2022

Sunil Baburao Shingare and Anr. ..Petitioners

Versus

Kishor Gaurihar Tambvekar ..Respondent

Mr. Kalpesh U. Patil, for the Petitioners.

CORAM : NITIN W. SAMBRE, J.

DATE : 14th JANUARY, 2022

PC.

1. In a suit for injunction, application Exh.22 moved by the respondent/plaintiff for appointment of Court Commissioner for measurement is allowed by the impugned order dated 27th October, 2021.

2. Submissions are, considering the prayer in the plaint, the stage at which such application is granted, the Court below has committed an error.

3. I have appreciated the said submission in the light of the written statement of the petitioners/ defendants.

4. Considering the nature of prayer in the plaint, the defence set up by the petitioners through written statement, in my

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opinion, Court below has justified in granting prayer for appointment of the Court Commissioner. No illegality is noticed by this Court under Article 227 of the Constitution of India in the order impugned passed by the Court below.

5. Accordingly, writ petition stands dismissed.

[NITIN W. SAMBRE, J.]