

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

WRIT PETITION 10521 OF 2018

Pushpalata Dattatray Kanthe ... Petitioner
Versus
Khandu Balu Kanthe and Anr. ... Respondents

Mr. R. D. Suryawanshi for the Petitioner.
Mr. Rajesh P. Behere a/w Rahul Singh and Pranali Raut for the
Respondent 1.
Mr. D. S. Pagare for the Respondent 2.

CORAM: ROHIT B. DEO, J.
DATE : 24th JUNE, 2022

P.C. :-

. The petitioner is the plaintiff in Regular Civil Suit 37 of 2013 which is brought for decree of perpetual injunction seeking to restrain the defendant 1 from constructing on the suit property and further for removal of the construction.

2. The plaintiff preferred application exhibit 29 seeking appointment of Court Commissioner to measure the suit property. The learned Trial Court rejected application exhibit 29 by order dated 16th October, 2014. The said order was not challenged by the plaintiff.

3. The plaintiff moved successive application exhibit 38 seeking identical relief. Vide order dated 16th December, 2017, the learned Trial Court was pleased to reject the successive application seeking appointment of Court Commissioner. This order is impugned.

4. Two reasons are given by the learned Trial Court for rejecting the successive application. The first reason is that similar prayer is rejected earlier and that order has assumed finality. The second reason given is that even according to the plaintiff he has got the suit property measured through the Deputy Superintendent of Land Record, Shahapur. The learned Trial Court has observed that the plaintiff is free to prove the measurement map by examining the concerned authority.

5. No fault can be found with the reasons recorded. No interference in writ jurisdiction is necessary. The petition is dismissed.

[ROHIT B. DEO, J.]