

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

WRIT PETITION NO.6776 OF 2016

Mr. Dhanaji Govind Khandagale and Ors. ..Petitioners
Versus
Smt. Chandrabhaga Dattu Raut and Ors. ..Respondents

Mr. Pradeep S. Gole, for the Petitioners.

CORAM : NITIN W. SAMBRE, J.

DATE : 14th MARCH, 2022

PC.

1. The prayer of the petitioners/defendants to a suit being Special Civil Suit No.140 of 2014 for appointment of Court Commissioner moved vide Exh.50 is rejected vide impugned order dated 25th January, 2016.
2. The submissions are, the plaintiffs have not described the correct suit property and to clarify the same, appointment of Court Commissioner is necessary. The further contentions are, it will be in the interest of plaintiffs also the appointment of Court Commissioner should be granted.
3. Considered submissions.
4. From the record, it appears that the suit is for declaration of title and ownership.

5. In the background of pleadings in the suit, the burden is on the respondents/plaintiffs to prove the same. In that view of the matter, the Court below, in my opinion was justified in rejecting the prayer for appointment of Court Commissioner, as same is rightly said to be moved for the purpose of collection of evidence. That being so, there is no substance in the petition.

6. As such, petition stands dismissed.

[NITIN W. SAMBRE, J.]