

VRJ

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

WRIT PETITION NO.11248 OF 2018

VAIBHAV
RAMESH
JADHAV
Digitally signed by
VAIBHAV RAMESH
JADHAV
Date: 2024.12.04
16:54:28 +0530

Vasant Maruti Madwan & Ors.

... Petitioners

V/s.

Shivaji Yashwant Salunkhe & Ors.

... Respondents

Mr. S. G. Deshmukh i/by Ms. Priya A. Patil for the
petitioners.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 4, 2024

P.C.:

1. The Trial Court, by the impugned order, has rejected the petitioners' application for appointment of Court Commissioner under Order XXVI Rule 9 of the Civil Procedure Code, 1908. It is well settled that such a relief can only be granted in a suit arising out of dispute of encroachment or boundary dispute. Hence, in absence of dispute in relation to encroachment or boundary, the Trial Court was justified in rejecting the application. Hence, no interference in the impugned order is called for. The writ petition is dismissed.

2. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)