



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11060/2026

ANIRUDHA SITARAM SINGH ..PETITIONER

VS

GEETA NIWAS CO.OP. HSG. SOC. ..RESPONDENT

Adv. Amogh Singh a/w. Adv. Vijay Thakur, Adv. Rutuparn
Umesh Deo i/b. Thakur & Associates for petitioner.

CORAM : ARUN R. PEDNEKER, J.

DATE : 3rd SEPTEMBER, 2026.

Per Court :

1. The petitioner challenges the judgment and order dated 20th July, passed by the Appellate Bench of the Court of Small Causes at Bombay below Exhibit-11 in Appeal No.46 of 2026, whereby the petitioner's Application under Order XXVI Rule 9 Code of Civil Procedure, seeking appointment of a Court Commissioner for local investigation, measurement, preparation of a sketch plan and photography of the suit premises was rejected.

2. The petitioner instituted R.A.D. Suit No. 1809 of 2009 before the Court of Small Causes at Bombay seeking, *inter alia*, a declaration of lawful tenancy in respect of the suit premises at Singh House, Mahim, Mumbai. By judgment and order dated 22nd January, 2026. The Trial Court dismissed the suit, holding, *inter alia*, he failed

to produce satisfactory material to establish his tenancy to the area of 1000 sq.ft. The petitioner preferred Appeal No. 46 of 2026. During the pendency of the Appeal, he filed Exhibit-11 under Order XXVI Rule 9 of the CPC seeking appointment of a Court Commissioner/Architect to inspect and measure the premises, prepare a sketch plan, take photographs and submit a report, particularly in view of the finding regarding the extent of the premises. The Appellate Bench, by judgment and order dated 20th July, 2026, rejected the application, holding that the dispute primarily concerned the petitioner's status as a tenant and that no case for local investigation was made out. Aggrieved thereby, the petitioner has invoked the supervisory jurisdiction of this Court under Article 227 of the Constitution.

3. The application for appointment of Court Commissioner is rejected by holding that the petitioner failed to establish that such investigation was necessary for deciding the controversy in the Appeal. The Court, therefore found the application devoid of merit and rejected it.

4. Heard learned counsel for the petitioner.

5. The application for appointment of Court Commissioner is in the nature of collection of evidence for the applicant. The Civil Court would not aid a party in collecting evidence under Order IX Rule 26. No case is made out by the applicant to carry out local

inspection. I find no error in the judgment of the Appellate Court as a party cannot seek Court's aid in collecting evidence under Order IX Rule 26 of the Code of Civil Procedure.

6. In view of the above, no case is made out to interfere with the judgment and order dated 20th July, 2026, passed by the Appellate Bench of the Court of Small Causes at Bombay below Exhibit-11 in Appeal No.46 of 2026.

7. The present writ petition stands dismissed.

[ARUN R. PEDNEKER, J.]