

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 3141 OF 2015.

(DNYANESHWAR SHANKARRAO HIVSE & ANR...VS..SHIVKUMAR BALIRAM YADAV & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : JULY 03, 2015.

Heard Mr.P.S.Raut, the learned advocate for the petitioners and Ms M.N. Hiwase, the learned A.G.P. for the respondent Nos. 3 to 5.

The petitioners/ defendants have filed this petition challenging Clause 5 of the operative part of the impugned order passed by the learned trial Judge by which it is directed that the petitioners (defendants) and the respondents (plaintiffs) shall deposit the expenses of execution of the Court Commission equally with the Deputy Superintendent of Land Records, Amravati.

It is submitted on behalf of the petitioners that the order passed by the trial Court appointing the Court Commissioner is not challenged as they are not aggrieved by the appointment of the Court Commissioner. The only grievance is that since the respondents/ plaintiffs have sought the appointment of the Court Commissioner the charges for execution of the Court Commission cannot be foisted on the petitioners. Though this submission is made, I find nothing in the petition to show as to how much charges

are required to be borne by the petitioners as per the impugned order. The oral submissions made on behalf of the petitioners in this regards cannot be considered unless the petitioners show that the charges are exorbitant and more than what is being spent by them for filing this petition. In my view, it would not be appropriate to entertain the grievance as made on behalf of the petitioners. I find no illegality or irregularity which necessitates interference by this Court exercising the extraordinary jurisdiction.

The Writ Petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE

RRaut..