

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

WRIT PETITION NO. 1298 OF 2016

Nanda Ranganath Patil
@ Sarita Suresh Tarale,
R/at Flat No.12, Dream Classi Bldg.,
Anand Nagar, Nashik Rd., Nashik. ... Petitioner

v/s

Prakash Ranganath Patil (Aaher) & ors.,
All R/at Plot No.7, sahani Sujan Park,
Lulla Nagar, Kondhava Road,
Opp. Cosmos Bank, Pune. ... Respondent

Mr.V.S.Gokhale for the petitioner.

Mr.Shyam Sundar Solanke i/by Pratap Patil for Respondent Nos.1 to 3.

Coram: N.M. Jamdar, J.

Dated: 3 October 2016

ORAL ORDER:

The Petitioner/Plaintiff has challenged the order passed by the learned Civil Judge, Senior Division, Pune, dated 10 August 2015, rejecting the application moved by the Petitioner for an appointment of the Court commissioner in respect of Locker No.9613 of Bank of India.

2 It is the case of the Petitioner that this locker was owned by her father and after his death, there are various properties, such as, golden ornaments and cash were in the locker and, therefore, the Commissioner to inspect the locker be appointed.

3 Heard learned counsel for the parties.

4 The father of the Petitioner expired on 1 October 2011. Defendant No.3 is operating the locker for the last five years. There is no restrain as on date upon the Respondents from operating the said locker. In view of the passage of time, since Respondent No.3 has been freely operating the locker for the last five years, no purpose will be served by appointing Court Commissioner. In case, during the trial, the Petitioner establishes her case and an occasion arises for taking an inventory after the initial burden is discharged, then, the learned Civil Judge will not be precluded from exercising his discretion in appointing a Commissioner irrespective of the impugned order.

5 The writ petition is accordingly disposed of.

(N. M. Jamdar, J.)