

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4273 OF 2015
(Riyajoddin @ Raje s/o Haji Mohammad Sharif and others Vs.
Haji Begum Khwaja Moinoddin and another)

Mr.G.K.Naik Thigle, Advocate for the petitioners.
None for the respondents.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 13/09/2017

PER COURT :

1. None for the respondents.
2. The petitioners are aggrieved by the order dated 27/02/2015 by which application Exh.42 filed by the petitioners/plaintiffs seeking appointment of Court Commissioner, has been rejected only on the ground that the plaintiffs facing R.D.No.124/2004 had filed their objections and those objections have been rejected.
3. I have considered the strenuous submissions of the learned Advocate for the petitioners who has criticized the impugned order.
4. The suit has been preferred on 12/04/2013. Application Exh.42 has been filed on 30/06/2014. Apparently, the trial in the

suit had not commenced. This Court has concluded in a series of orders / judgments that the request for appointment of a Court Commissioner could be entertained after the commencement of the recording of evidence, though in rare circumstances, such a Court Commissioner could be appointed prior to the said stage.

5. By this time, after the passage of 4 years, the suit may have become ripe for a trial. Considering the above, this petition is disposed of. It is, however, made clear considering the consistent view taken by this Court that after the recording of oral evidence commences, either of the litigating sides, if so desire, may make an application for the appointment of a Court Commissioner and such application would then be considered on its own merits without being influenced by the impugned order dated 27/02/2015.

(Ravindra V.Ghuge, J.)