

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7028 OF 2016
(Sunita Mukesh Kapoor Vs. Shrichand Hemandas Jagyasi)

Mr.L.D.Vakil, Advocate for the petitioner.
Mr.P.S.Burse, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 15/06/2017

PER COURT :

1. The petitioner is aggrieved by the order dated 10/05/2016 by which a Court Commissioner has been appointed by the Trial Court by allowing application Exh.59 in Rent Suit No.1/2009.

2. Upon hearing the learned Advocates for the respective sides and on assessing the factors involved in this matter, at a prima facie stage, the litigating sides are agreeable for permitting the Court Commissioner to inspect the location of the approach way to the first floor in the suit shop No.45-A.

3. The prayer made in application Exh.59 reads as under :-

“This application may kindly be allowed and suit property shop No.45-A of the plaintiff situated at Sindhi Colony, Jalna Road, Aurangabad, existence of it's first floor and approach way for its

first floor may kindly be inspected by this Hon'ble Court personally or alternatively if this Hon'ble Court does not find time to inspect the same personally, and person may kindly be appointed as Court Commissioner for the said purpose and he may be directed to submit his report on this point and oblige."

4. Since the litigating sides have arrived at a consensus for a Court Commissioner inspecting the approach way/access to the first floor above shop No.45-A, this petition is partly allowed and the direction in clause 2 of the impugned order is modified accordingly. The Court Commissioner shall accordingly inspect the approach way as observed above and submit its report in the proceedings.

5. Needless to state, the litigating sides and the Trial Court shall deal with the report of the Court Commissioner, as is permissible in law.

(Ravindra V.Ghuge, J.)