

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

929 WRIT PETITION NO. 1645 OF 2015

JAYSHREE GANESH VISHWEKAR
VERSUS
BAPU SAMBHAJI SUKALE AND ANOTHER

...

Advocate for Petitioner : Mr. Girish Nagori, h/f Mr. Sandeep Y. Mahajan.
Advocate for Respondents : Mr. Sushant B. Choudhari.

...

CORAM : **V. K. JADHAV, J.**
DATE : 05th December, 2017.

ORDER:

. The Respondents / original Plaintiffs have filed an application Exhibit 16 seeking appointment of Court Commissioner in a suit instituted for recovery of possession and a decree of perpetual injunction.

2 The learned counsel for Petitioner / original Defendant submits that the Respondents / Plaintiffs have filed the said application Exhibit 16 seeking appointment of Court Commissioner before the trial of the suit commences. This Court in catena of cases held that if such application seeking appointment of Court Commissioner is filed before the trial of the suit is commenced, the same should not be decided by the Court and in that event the Plaintiff would be at liberty to file such an application seeking appointment of Court Commissioner at later

stage.

3 The learned counsel for the Respondents / Plaintiffs has also not disputed this legal position.

4 In view of the above, I proceed to pass the following order:

ORDER

- I. The writ petition is hereby partly allowed.
- II. The impugned order dated 13th October, 2014 passed by the Joint Civil Judge Junior Division, Washi below Exhibit 16 in Regular Civil Suit No.70 of 2014, is hereby quashed and set aside.
- III. The application Exhibit 16 is hereby rejected with a liberty to the Respondents / Plaintiffs to file such an application seeking appointment of the Court Commissioner at later stage after commencement of trial of the suit, if desired.
- IV. The writ petition is accordingly disposed of.

[V. K. JADHAV, J.]