

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 WRIT PETITION NO. 5048 OF 2017

DHONDIRAM YADAV KARPE
VERSUS
BARA IMAM MASJID TRUST THROUGH ITS TRUSTEES AND
OTHERS

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Advocate for Petitioner : Mr. Shirsath P.B.
Advocate for Respondent Nos. 1 to 6 : Mr. Shaikh Mazhar A.
Jahagirdar

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CORAM : V. K. JADHAV, J.
DATED : 27th MARCH, 2018

PER COURT:-

1. The learned counsel for the respondents/original plaintiffs, on instructions, submits that the order passed by the trial court allowing the application exhibit 20 seeking appointment of a Court Commissioner is prior to recording the evidence. The learned counsel submits that the respondents/original plaintiffs may be granted liberty to file an application afresh for appointment of Court Commissioner after commencement of trial.

2. The learned counsel for the petitioner/original defendant has no objection if such liberty is granted.

3. In view of the above submissions, the Writ Petition is hereby partly allowed. No costs.

4. The impugned order dated 17.03.2017 passed below Exhibit 20 in R.C.S. No. 1183 of 2012 is hereby quashed and set aside and the application exhibit 20 is “filed”.

5. Respondent nos. 1 to 6/original plaintiffs are at liberty to file an application afresh for appointment of Court Commissioner after commencement of trial, if occasion so arises, and the trial court may consider the same on its own merits.

6. Writ Petition is accordingly disposed of.

(V. K. JADHAV, J.)

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