

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11461 OF 2018

**AHILYABAI CHANDAJIRAO MORE
VERSUS
PRAVIN APPARAO MORE AND ANOTHER**

...
Advocate for the Petitioners : Shri S. S. Gangakhedkar

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 16th OCTOBER, 2018.

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PER COURT :

1. The petitioner/original plaintiff is aggrieved by the order 10/04/2018 passed by the Trial Court, by which, application Exhibit 67, seeking appointment of a court commissioner in RCS No. 50/2013, has been rejected.
2. I have considered the strenuous submissions of Shri Gangakhedkar learned Advocate for the petitioner.
3. The learned Advocate for the petitioner has strenuously criticized the impugned order and submits that the order deserves to be quashed and set aside and a court commissioner deserves to be appointed.

4. I find from the record that application Exhibit 67 seeking appointment of a court commissioner was filed on 22/11/2017 seeking measurement of the suit property and for identifying the share of Purushottam Sheshrao More or his successors in land CTS No. 957 .

5. This Court has consistently taken a view that a court commissioner should not be appointed until the recording of oral and documentary evidence is concluded. Following are few of such orders passed by this Court :-

- 1. Gangaram Baban Tagad and others Vs. Sarubai Yashwant Tagad and others (WP No.6700/2011 dated 12/06/2013)**
- 2. Shantabai Pralhad Anantwad Vs. Tahsildar, Tahsil Office Latur and others (WP No.1096/2018 dated 31/01/2018)**
- 3. Syed Mushtaque Ahmad Syed Ismail and others vs. Syed Ashique Ali Khan Haidar Ali, 2012 (1) ALL MR 80 : 2011 (6) Mh.L.J. 334.**
- 4. Dnyandeo Vithal Salke and others vs. Dagdu Kadar Inamdar, 2017 (3) Mh.L.J. 314.**
- 5. Chandrakant Kashinath Dike and others vs. Smt.Satyabhama Vishwanath Dike and another, Writ**

Petition No.8877/2013 (Aurangabad Bench) decided on 17.01.2014.

6. Dhondiba Bapu Zaware vs. Santosh Paraji Zaware and others, Writ Petition No.4756/2014 (Aurangabad Bench) decided on 08.12.2014.

6. In view of the above, I do not find that the impugned order dated 10/04/2018 could be termed as being perverse or erroneous. This petition, being devoid of merit is, therefore, dismissed.

7. In the event, either of the litigating sides moves an application for appointment of a court commissioner, after the recording of oral evidence is concluded, the Trial Court would consider such an application on its own merits.

(RAVINDRA V. GHUGE, J.)

shp/-