

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12215 OF 2018

RAMRAO WALMIK SABLE AND ANOTHER
VERSUS
SALUBAI GANGADHARRAO JANRAO AND OTHERS

...
Advocate for Petitioners : Shri Awasarmol Rahul O.

...
CORAM : RAVINDRA V. GHUGE, J.
Dated: October 31, 2018

...
PER COURT :-

1 The petitioners / original plaintiffs in RCS No. 227 of 2016 are aggrieved by the order dated 18.7.2017, challenged on 6.9.2018, by which, application Exhibit 23 seeking appointment of a Court Commissioner has been rejected.

2 I have considered the strenuous submissions of the learned Advocate for the petitioners and have gone through the grounds formulated.

3 This Court has consistently taken a view that the Court Commissioner is not to be appointed for collecting the evidence. After the conclusion of the recording of the oral evidence, the Court may consider the appointment of a Court Commissioner. Some of the orders of this Court are as under:-

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

2-WRIT PETITION NO. 12215 OF 2018

(1) Syed Mushtaque Ahmad Syed Ismail and others Vs. Syed Ashique Ali Khan Hatdar [2011 (6) Mh.L.J. 334 = 212 (2) Bom. C.R. 790],

(2) Nalubai Shinde and others Vs. Gopinath Shinde [2011(2) Mh.L.J.991],

(3) Dnyandeo Vithal Salke and others vs. Dagdu Kadar Inamdar, 2017 (3) Mh.L.J. 314.

(4) Chandrakant Kashinath Dike and others vs. Smt.Satyabhama Vishwanath Dike and another, Writ Petition No.8877/2013 (Aurangabad Bench) decided on 17.01.2014.

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

4 The petitioners concede that Exhibit 23 was filed after the written statement was filed. Issues were yet to be cast.

5 In view of the above, this petition is dismissed. Needless to state, after the recording of oral evidence has concluded, either of the litigating sides, would be at liberty to prefer an application for appointment of the Court Commissioner and the trial Court will consider the same on it's own merits.

(RAVINDRA V. GHUGE, J.)

...