

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

WRIT PETITION NO. 3108 OF 2018

PRABHU LOKDOBA LOHAKARE AND OTHERS
VERSUS
PANDURANG DHONDIBA INGLE AND OTHERS

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Advocate for the Petitioners : Shri Bilolkar Upendra B..

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 27th March, 2018

Per Court:

1 The Petitioners are aggrieved by the order dated 13.11.2017 by which, the Trial Court has rejected the application Exhibit-35 seeking the appointment of a Court Commissioner on two grounds. Firstly that, the application is premature and secondly that, the Petitioners desire to collect evidence.

2 It appears from the record that RCS No.14/2014 is at the stage of framing of issues. The recording of evidence has still not commenced.

3 This Court, in a series of orders as in Gangaram Baban Tagad and others vs. Sarubai Yashwant Tagad and others, Writ Petition No.6700/2011 decided on 12.06.2013 (Coram : Justice S.VGangapurwala, J.), has held that the Court Commissioner is normally not to be appointed

before the recording of oral evidence. It is in the rarest of rare case that such an order could be passed.

4 Considering the above, this Writ Petition is disposed of.

5 It is, however, made clear that after the recording of oral evidence, in the event any of the litigating sides desire to seek the appointment of a Court Commissioner, the Trial Court would consider such application on its own merits and the observations in the impugned order dated 13.11.2017 would not influence the Trial Court while deciding the said application.

kps

(RAVINDRA V. GHUGE, J.)