

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

WRIT PETITION NO. 6850 OF 2018

Asarabai Sahebrao Sherkar

... Petitioner

Versus

Ramesh Trimbak Jadhav and others

... Respondents

....

Mr. V. S. Bedre, Advocate for petitioner.

Mr. N. B. Narwade, Advocate for respondent Nos. 1 and 3.

....

CORAM : M. S. KARNIK, J.

DATED : 6th AUGUST, 2019

PER COURT :-

1. The order under challenge is passed by the trial Court rejecting an application made by the plaintiff for appointment of Court Commissioner under Order XXVI Rule 9 of the Code of Civil Procedure, 1908. The application was made before recording of evidence. This Court has time and again laid down that such an application should not be entertained before the evidence is recorded.

2. I see no reason to interfere with the order of the trial Court. It is, however, clarified that it would be open for the plaintiff to file an appropriate application for appointment of Court Commissioner after recording of evidence. Subject to this observation, without interfering with the order of the trial Court, the writ petition is disposed of.

[M. S. KARNIK, J.]

SMS