

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.6805 OF 2015  
(Babulalji s/o Kachrulalji Kaalani Vs. Rajkumar s/o Vajinath Lature)

Mr.Amit S.Deshpande, Advocate for the petitioner.

( CORAM : Ravindra V.Ghuge, J.)

DATE : 03/07/2019

PER COURT :

1. I have heard the learned Advocate for the petitioner/original plaintiff. Learned Advocate for the respondent is absent.
2. The petitioner is aggrieved by the order dated 17/03/2015 passed by the Trial Court rejecting his application Exh.34 seeking appointment of a Court Commissioner in RCS No.117/2014.
3. The learned Advocate for the petitioner has strenuously criticized the impugned order and submits that the Trial Court should have considered Exh.34 favourably.
4. This Court has passed several orders, some of which are as under, wherein it has been held that a Court Commissioner can be appointed after the recording of oral evidence is concluded.

“(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.

(6) *Dipak Laxman Gadekar and anr. Vs. Trimbak Ravji Shirsath, Writ Petition No. 11593/2015 (Aurangabad Bench), decided on 23/08/2017,*

(7) *Mahadeo s/o Vaijanath Bembalge Vs. Chandrakala w/o Ramesh Athane, Writ Petition No. 832/2018 (Aurangabad Bench), decided on 04/06/2018,*

(8) *Dhondiram Nivrutti Pawar through L.Rs. Vs. Laxman Khashaba Pawar and others, Writ Petition No. 1196/2017, (Bombay Bench), decided on 23/01/2018,*

(9) *Sanjay Balasaheb Khandare Vs. Vivek Surinder Mahajan and another, Writ Petition No. 4958/2018,(Aurangabad Bench), decided on 29/01/2018.”*

5. The learned Advocate for the plaintiff informs that the recording of oral evidence is in progress.

6. As such, this petition is disposed off.

7. It shall however be noted that after the recording of oral evidence is concluded, if any application for appointment of a court commissioner is filed by any of the litigating sides, the Trial Court would consider the same on its own merits, without being influenced by its observations in the impugned order dated 17/03/2015.

( Ravindra V.Ghuge, J.)