

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

11 WRIT PETITION NO.4116 OF 2019

BHAURAO BABA MORE
VERSUS
ANANDA NAMDEV MORE AND OTHERS

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Advocate for Petitioner : Shri Dhage Vaibhav B.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 01, 2019
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PER COURT :-

1. The petitioners/ plaintiffs are aggrieved by the impugned order dated 11.2.2019, vide which the trial Court has rejected their application Exhibit 6, seeking appointment of a Court Commissioner in RCS No.89 of 2017, prior to the completion of the recording of oral evidence.

2. This Court has consistently taken a view in the following matters that a Court Commissioner can be appointed after completion of the oral evidence:-

(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],

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

2- WRIT PETITION NO.4116 OF 2019

(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 and

(6) Kalyan Santram Kawade and others Vs. Khanderao @ Khandu Ganpati Kawade - Writ Petition No.3600 of 2014, dated 20.8.2014.

3. I do not find any merit in the petition. The impugned order does not call for any interference. Hence this petition is dismissed.

4. It be noted that after the recording of the oral evidence is concluded, if either of the litigating sides, moves an application for appointment of a Court Commissioner for measurement of the suit properties of the litigating sides and for fixing the boundaries, the trial Court would consider the said application on it's own merits and without being influenced by any of the observations made in the impugned order dated 11.2.2019, below Exhibit 6.

(RAVINDRA V. GHUGE, J.)

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