

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

WRIT PETITION NO. 7194 OF 2019

**SUDHAKAR DHONDIBA SHINDE GENERAL POWER OF
ATTORNEY ANUSAYA SUDHAKARRAO SHINDE
VERSUS
SHANKAR DHONDIBA SHINDE AND OTHERS**

...

Advocate for the Petitioner : Shri K. M. Nagarkar

...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 17th JUNE, 2019.

...

PER COURT :

1. The petitioner original plaintiff is aggrieved by the order dated 07/03/2017, by which, the Trial Court rejected application Exhibit 14, vide which, the plaintiff had sought appointment of a court commissioner in RCS No. 207/2016.

2. I have heard the learned Advocate for the petitioner and have gone through the grounds formulated by him in the memo of the petition.

3. This Court has consistently held that a court commissioner should be normally appointed after recording of

oral evidence has been concluded. If the Trial Court finds that the assistance of a court commissioner is required for elucidating further information, after recording of oral evidence, such an order could be passed. Some of the orders/judgments delivered by this Court are as under :-

(a) Syed Mushtaque Ahmad Syed Ismail and others vs. Syed Ashique Ali Khan Haidar Ali, 2012 (1) ALL MR 80 : 2011 (6) Mh.L.J. 334.

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

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

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

4. In view of the above, I do not find that the Trial Court has committed any error in rejecting application Exhibit 14. It has also recorded that the final prayer in the suit is a direction

for measurement of the suit property and hence such an order cannot be passed as an interlocutory order. Hence this petition is dismissed.

5. After the recording of oral evidence is concluded in the suit, if any of the litigating sides moves an application for appointment of a court commissioner, the Trial Court would consider the same on its own merits and in the event it finds that the assistance of the court commissioner would enable it to effectively decide this suit.

(RAVINDRA V. GHUGE, J.)

shp/-