

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

WRIT PETITION NO. 9685 OF 2019

**KRUSHNAJI BHAGWAT AGRE AND ANOTHER
VERSUS
APPASAHEB SURYABHAN AGRE DIED SUNITA APPASAHEB
AGRE AND OTHERS**

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Advocate for the Petitioners : Shri S. S. Chapalgaonkar

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 2nd AUGUST, 2019.

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PER COURT :

1. The petitioner is aggrieved by the impugned order dated 29/06/2019, by which, application Exhibit 34 filed by the petitioner plaintiffs seeking appointment of a court commissioner, has been rejected.

2. I have considered the strenuous submissions of Shri S. S. Chapalgaonkar, learned Advocate appearing on behalf of the plaintiffs. I have gone through the 8 grounds formulated in the memo of the petition.

3. This Court has consistently held that a court

commissioner should be appointed after the recording of oral evidence has concluded. Some of the orders passed 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 & 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

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

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

(g) *Dhondiram Nivrutti Pawar through L.Rs. Vs. Laxman*

Khashaba Pawar and others, Writ Petition No. 1196/2017, (Bombay Bench), decided on 23/01/2018,

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

3. In view of the above, the impugned order refusing appointment of a court commissioner can neither be termed as being perverse nor erroneous. This petition, being devoid of merit is, therefore, dismissed.

4. Needless to state, after the recording of oral evidence has concluded in the suit, if an application for appointment of a court commissioner is filed by any litigating side, the Trial Court would consider the same on its own merits and without being influenced by the observations appearing in the impugned order.

(RAVINDRA V. GHUGE, J.)

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