

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14719 OF 2019

INDUBAI GABA DHAVALÉ
VERSUS
ARUN VISHWANATH SUPEKAR AND OTHERS

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Advocate for Petitioner : Shri Chapalgaonkar Shailesh S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: December 09, 2019

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PER COURT :-

1. The petitioner / plaintiff in RCS No.211 of 2016 is aggrieved by the order dated 5.7.2019, by which, the trial Court has rejected the application Exhibit 27, filed by the plaintiff for seeking appointment of the Court Commissioner.
2. It is conceded that the recording of oral evidence is still in progress.
3. This Court has held consistently that a Court Commissioner should not be appointed before the recording of oral evidence is concluded. Some of the orders passed by this Court are as under:-

(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.

(10) *Bhika Mahadu Katkar and another Vs. Arjun Bhimraj Ghode*, WP No.1890/2019 (Aurangabad Bench) decided on 09/07/2019.

(11) *Sitaram Suklal Patil and another Vs. Vasudeo Suklal Patil*, WP No.9626/2016 (Aurangabad Bench), decided on 31/07/2017.

4. In view of the above, this petition is disposed off. After the recording of oral evidence is concluded, if an application seeking appointment of a Court Commissioner is filed by any of the

litigants, the trial Court would consider the same on it's own merits and without being influenced by it's earlier orders below Exhibits 18 and 27.

(RAVINDRA V. GHUGE, J.)

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