

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11518 OF 2019

BHAGUNATH RABHAJI JEJURKAR AND OTHERS
VERSUS
SONYABAPU RABHAJI JEJURKAR AND OTHERS

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Advocate for Petitioners : Shri Gandhi Amol S.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: September 20, 2019

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PER COURT :-

1. The petitioner / original defendants 1 and 2-A are aggrieved by the order dated 9.7.2018 passed by the trial Court, by which, their application Exhibit 17 seeking appointment of a Court Commissioner in RCS No.152 of 2010, has been rejected.

2. I have considered the strenuous submissions of the learned Advocate for the petitioners and have gone through the 11 grounds formulated in the memo of the petition.

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 being devoid of merit is, therefore, dismissed.

5. Nevertheless, after the recording of oral evidence is concluded in the matter, if any litigant files an application for seeking appointment of a Court Commissioner, the trial Court would consider the same on its own merits and without being influenced by the impugned order.

(RAVINDRA V. GHUGE, J.)

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