

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.195 OF 2019

(RAMLAL THAKUR PATORKAR...VS.. HARICHAND SOMALYA PATORKAR (KORKU) & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.L.Khapre, Advocate for Petitioner.
Shri S.O.Ahmed, Advocate for Respondent Nos.1 to 6.

CORAM : Z.A.HAQ, J.

DATED : MARCH 01, 2019.

Heard.

The defendant has filed this petition to challenge the order passed by the trial Court by which the application (Exh.80) filed by him under Order XXVI Rule 9 of the Code of Civil Procedure is dismissed. The application (Exh.80) was filed by the defendant after recording of the evidence was complete and the civil suit is at the stage of arguments by the parties. The defendant has not been able to show why the prayer for appointment of Commissioner is not made earlier, and before recording of the evidence of the plaintiffs and its witness/ witnesses started.

In the facts of the case, I find that the learned trial Judge has rightly rejected the application. It cannot be said that the impugned order suffers from any illegality or error of jurisdiction which necessitates interference by this Court in the extraordinary jurisdiction.

The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE