

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.6504 OF 2016

Shantabai wd/o Shyamrao Meshram, Thr. POA Baldeo S. Meshram, Gandhi Nagar, Tumsar,
Bhandara.

-vs-

The State of Maharashtra and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri V. D. Muley, Advocate for petitioner.
Shri S. B. Bissa, Assistant Government Pleader for
respondent Nos.1 and 2.
Shri M. I. Dhatri, Advocate for respondent No.3.
Shri A. N. Ansari, Advocate for respondent No.4.

CORAM : A.S.CHANDURKAR, J.

DATE : July 03, 2019

The petitioner is aggrieved by the order passed below Exhibit-38 by which the trial Court has rejected the application for appointment of a Court Commissioner.

According to the petitioner since the structure that is sought to be removed by the plaintiff by filing the suit is located on Nazul property, the appointment of Court Commissioner was sought. The trial Court has rejected the said application on the ground that it was moved belatedly.

After hearing learned counsel for the parties, it is seen that the relief sought in the suit by the plaintiff is

for removal of the structure said to be erected by respondent No.4. Since the plaintiff seeks to have the said property inspected, it would be open for the plaintiff to have the same inspected by any independent person as desired and bring on record the position as existing. Though the trial Court was not justified in observing that the application was filed for prolonging the matter, the plaintiff is always at liberty to have the disputed site inspected and to lead the evidence in that regard.

In that view of the matter it is not necessary to interfere in writ jurisdiction. By keeping the right of the plaintiff open to have the disputed site inspected, the writ petition is disposed of. No costs.

JUDGE