

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

6 WRIT PETITION NO.3342 OF 2019

RADHAKISHAN RAMCHANDRA LAGAD AND OTHERS
VERSUS
SUBHASH MADHAVRAO LAGAD AND OTHERS

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Advocate for Petitioners : Mr. Bhavthankar Vivek Vasantrao

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CORAM : V. K. JADHAV, J.
DATE : 13.01.2020

PER COURT :-

1. The learned counsel for the petitioners-original plaintiffs admits that after framing of the issues and before the actual evidence is adduced by the petitioners-original plaintiffs, the application Exh.25 was filed for appointment of the Court Commissioner.

2. This Court has consistently held that the Court Commissioner should not be appointed until the recording of oral evidence is concluded. Following are some of such orders passed by this Court :-

(a) *Sanjay Namdeo Khandare vs. Sahebrao Kachru Khandare and others, 2001 (2) Mh.L.J. 959.*

- (b) *Kolhapuri Bandu Lakade vs. Yallappa Chinappa Lakade and others, 2011 (3) Mh.L.J. 348.*
- (c) *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.*
- (d) *Gangaram Baban Tagad and others Vs. Sarubai Yashwant Tagad and others (WP No.6700/2011 dated 12/06/2013).*
- (e) *Chandrakant Kashinath Dike and others vs. Smt. Satyabhama Vishwanath Dike and another, Writ Petition No.8877/2013 (Aurangabad Bench) decided on 17.01.2014.*
- (f) *Dhondiba Bapu Zaware vs. Santosh Paraji Zaware and others, Writ Petition No.4756/2014 (Aurangabad Bench) decided on 08.12.2014.*
- (g) *Dnyandeo Vithal Salke and others vs. Dagdu Kadar Inamdar, 2017 (3) Mh.L.J. 314.*
- (h) *Dipak Laxman Gadekar and another vs. Trimbak Ravji Shirsath, Writ Petition*

*No.11593/2015 (Aurangabad Bench)
decided on 23.08.2017.*

- (i) Dhondiram Nivrutti Pawar through
L.Rs. vs. Laxman Khashaba Pawar and
others, Writ Petition No.1196/2017
(Principal Seat Bombay) decided on
23.01.2018.*
- (j) Sanjay Balasaheb Khandare vs. Vivek
Surinder Mahajan and another, Writ
Petition No.4958/208 (Aurangabad
Bench) decided on 29.01.2018.*
- (k) Shantabai Pralhad Anantwad Vs.
Tahsildar, Tahsil Office Latur and
others (WP No.1096/2018 dated
31/01/2018).*
- (l) Mahadeo Vaijanath Bembalge vs.
Chandrakala Ramesh Athane, Writ
Petition No.832/2018 (Aurangabad
Bench) decided on 04.06.2018.*
- (m) Baburao Jairam Borade vs. Fakira
Tukaram Lanekar, Writ Petition
No.1743/2018 decided on 28.08.2018
(Aurangabad Bench).*
- (n) Sarjerao Nathu Bangar and others vs.
Namdeo Keru Bangar and others, Writ*

*Petition No.13441/2019 decided on
07.11.2019 (Aurangabad Bench).*

3. Thus, it is settled that after leading their oral evidence, the litigating parties may file an application for appointment of the Court Commissioner.

4. The learned counsel appearing for petitioners-original plaintiffs has also not disputed this legal position. The learned counsel thus seeks leave to withdraw this Writ Petition with a liberty to the petitioners-original plaintiffs to file an application at the latest stage i.e. after recording the oral evidence. Leave granted.

5. The Writ Petition stands dismissed as withdrawn with liberty to the petitioners-original plaintiffs to file an application at an appropriate stage for appointment of the Court Commissioner.

(V. K. JADHAV, J.)

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vmk/-