

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

31. WRIT PETITION NO. 1806 OF 2020

Vinayak Sarjerao Potghan
through his GPA Sarjerao Deorao Potghan
R/o Jategaon Tal. Parner Dist. Ahmednagar

...Petitioner

VERSUS

Bahiru Laxman Potghan and others

...Respondents

Mr. V.B. Anjanwatikar, Advocate for petitioner

CORAM : ROHIT B. DEO, J.

DATE : 29th January, 2020

PER COURT :

1. The petitioner is the plaintiff, who is aggrieved by the order passed by the Trial Court, whereby the application under Order XXVI Rule 9 of C.P.C. for appointment of Commissioner is rejected.
2. It is observed by the Trial Court that Commissioner cannot be appointed to collect the evidence. I do not see any error in the said observation.
3. However, since Commissioner can be appointed to elucidate evidence on record, the plaintiff shall be at liberty to apply

for appointment of Commissioner, afresh, after the evidence is recorded, and if such application is made, the same shall be considered on its own merits and in accordance with law.

4. The petition is disposed of.

**(ROHIT B. DEO)
JUDGE**

Madkar