

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

WRIT PETITION NO.7486 OF 2017

DADASAHEB TUKARAM MANDE AND ANOTHER
VERSUS
DATTATRAYA DAGADU MANDE DIED LRS
RAKHAMABAI DATTATRAYA MANDE AND OTHERS

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Advocate for Petitioners : Mr. Vaidya Ameet R.
Advocate for Respondents : Mr. L S Shaikh h/f D R
Jayabhar

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CORAM : V.K. JADHAV, J.
Dated: March 03, 2020

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PER COURT :-

1. By consent, this writ petition can be disposed off.

2. The petitioners have instituted the suit for removal of the encroachment. At the initial stage before commencement of the evidence, petitioners/plaintiffs have filed an application for appointment of the Court Commissioner. It thus appears that the Trial Court has rejected the said application on the ground that the application at the initial stage is not entertainable and the petitioner can file such an application for

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appointment of the Court Commissioner after commencement of the evidence, if so needed.

3. In view of the above, this writ petition is dismissed with the liberty to the petitioners/plaintiffs to file an application for appointment of the Court Commissioner at the appropriate stage and, upon filing such an application, the Trial Court may consider the same on its own merits afresh uninfluenced by the initial order of rejection.

(V.K. JADHAV, J.)

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