

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

WRIT PETITION NO.2606 OF 2020

LALA APPARAO MUNDHE THROUGH LRS CHANDRABHAGA LALA
MUNDHE AND OTHERS

VERSUS

ABHIMAN BALA MUNDHE AND ANOTHER

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Advocate for the Petitioners : Shri S.Y.Patil h/f Shri Kolpe Mahendra B.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 25th February, 2020

Per Court:

1 The petitioners/ original plaintiffs in RCS No.263/2014 are aggrieved by the order dated 20.03.2019 passed by the Trial Court by which, the application exhibit 26 seeking appointment of the Court Commissioner, has been rejected.

2 I have considered the strenuous submissions of the learned advocate for the petitioners and have gone through the grounds formulated in the memo of the petition.

3 This Court has consistently held, as like in the following judgments/ orders, that the court commissioner should not be appointed until the recording of oral evidence is concluded :-

*(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).*

4 In the instant case, the issues are yet to be framed and obviously, the recording of oral evidence has not concluded.

5 In view of the above, I do not find that the impugned order could be branded as being erroneous or perverse. This Writ Petition, being devoid of merit is, therefore, dismissed.

6 In the event, after the recording of oral evidence in the suit is concluded, if any litigating party moves an application for appointment of the court commissioner, the Trial Court would consider the said

application on its own merits and without being influenced by the impugned order.

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(RAVINDRA V. GHUGE, J.)