

2. This is a petition by the original defendants who are facing a suit for injunction.

3. In a Suit being Regular Civil Suit No.252 of 2017, an application Exhibit 49 moved under Order 26, Rule 9 of Code of Civil Procedure for appointment of Court Commissioner came to be allowed vide impugned order dated 12th June, 2019.

4. While assailing the said order, the learned counsel appearing for the petitioners would invite the attention of this Court to the provisions of Section 5 of the Mamlatdar's Courts Act, 1906 so as to claim that the proceedings before the Mamlatdar are required to be treated at par with that of civil proceedings. According to him, once the Mamlatdar court in exercise of statutory powers passes an order recognising rights of the petitioner; so as to nullify the said order, the Civil Court ought not to have exercised powers of appointment of Court Commissioner. According to him, the moment there is an adjudication by the Mamlatdar, the same shall govern rights between the parties.

5. The aforesaid contentions, in my opinion are required to be rejected as the orders and the proceedings before the Mamlatdar under the provisions of the Mamlatdar's Courts Act are always subject to

outcome of the civil proceedings. The orders or the proceedings before the Mamlatdar are trite i.e. lacks originality.

6. Considering the nature of the proceedings, which the petitioners are facing before Civil Court invoking the order of the Mamlatdar under Order 26, Rule 9 of the Code of Civil Procedure is very much justified. No illegality is noticed.

7. The petition fails. Dismissed.

(NITIN W. SAMBRE, J.)