

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 WRIT PETITION NO. 5730 OF 2021

NANDABAI PRALHAD PAWAR AND ANOTHER
VERSUS
BHARAT MARTAND GHANWAT AND OTHERS

.....

Advocate for Petitioners : Mr. Dilip B. Rode

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CORAM : V. K. JADHAV, J.

DATED : 1ST APRIL, 2021

PER COURT :-

1. I have heard learned counsel for the petitioners at length.

2. The petitioners are the original plaintiffs, instituted the suit bearing R.C.S. No. 123 of 2009 for a decree of perpetual injunction. The petitioners/plaintiffs filed application Exhibit 76 for appointment of Court Commissioner. By the impugned order, the trial court has rejected the said application.

3. It appears that both the parties have adduced their evidence. The plaintiffs have closed their evidence vide Exhibit 55 and the defendants have closed their evidence

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vide Exhibits 64 and 75 and the matter is posted for final arguments. In the suit simplicitor for a decree of perpetual injunction, the petitioners/original plaintiffs filed the application Exhibit 76 for appointment of Court Commissioner. It further appears that the respondents/defendants have instituted R.C.S. No. 203 of 2009 against the present petitioners for removal of encroachment and for recovery of the encroached portion of land Gat No. 54. The trial court has thus observed that with some ulterior motive the application Exhibit 76 seems to have been filed to create evidence.

4. In view of the above, I find no fault/error in the impugned order passed by the trial court. There is no reason to interfere. I find no substance in this Writ Petition. The Writ Petition is hereby dismissed.

(V. K. JADHAV, J.)

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