

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

59 WRIT PETITION NO.4153 OF 2021

DNYANDEO ZOPADU SARODE DECEASED THROUGH LRS AND ANOTHER
VERSUS
ABHIMAN SHANKAR PAWAR DECEASED THROUGH LRS

Mr.Girish V. Wani, Advocate for the petitioners.

CORAM : N.J.JAMADAR, J.
DATE : 08.03.2021

PC :-

01. The challenge in this petition is to an order dated 17.02.2020, passed by the learned 5th Jt. Civil Judge, Junior Division, Jalgaon in RD No.269 of 2007, whereby the learned Judge rejected the application preferred by the petitioner - defendant Nos.2A and 2B / judgment debtors for summoning the Court Commissioner, who has submitted report Exh.44 on 04.01.2013.

02. Learned Counsel for the petitioners has invited attention of the Court to the objection, which was taken by the petitioners at the time the commission was being executed. The said fact is also noted in the impugned order.

03. However, having regard to the timelag and the fact that the petitioners have not raised objection to

the report of the commission, after it was tendered before the Court, this Court is not inclined to entertain the petition.

04. At this stage, learned Counsel for the petitioner seeks leave to withdraw the petition with liberty to prefer an application before the executing Court seeking permission to file objection to the report of the Court Commissioner.

05. In order to resolve the controversy, it may be appropriate to grant such liberty to the petitioners.

06. Hence, the petition stands dismissed as withdrawn with liberty to the petitioners to file application along with their objection to the report of the Court Commissioner [Exh.44], which the executing Court shall consider on its own merits.

07. The petition stands disposed of.

[N.J.JAMADAR,J.]