

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

WRIT PETITION NO.576 OF 2022

**RAMAKANT DHARU PATIL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioners : Mr. Dhananjay A. Mane
AGP for Respondents – State : Mr. Y. G. Gujarathi
Advocate for Respondent No.3 : Mr. Chaitanya C. Deshpande

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 23rd FEBRUARY, 2022

PER COURT :

1. The petitioners are aggrieved by the order dated 14-12-2021, passed by the learned Joint Civil Judge Senior Division, Shahada, District Nandurbar, below Exhibit-28 in R.C.S. No.62/2022, thereby rejecting the application filed by the petitioners – plaintiffs for appointment of Court Commissioner.

2. According to the petitioners, there is a boundary dispute between the petitioners and respondents and so as to bring correct position of boundaries on record appointment of the Court Commissioner is necessary. It is a settled legal position that in the boundary disputes Court Commissioner should be appointed.

3. Admittedly, in the suit application Exhibit-5 for injunction is

yet to be decided, so also, evidence is yet to commence. In that view of the matter the application filed by the petitioner is premature.

4. At the stage of recording of evidence and from the evidence on record, if the Court finds that appointment of Court Commissioner is necessary, then at that stage application for appointment of TILR as a Court Commissioner can be filed. If such application is filed, the same shall be considered by the trial Court on its own merits. With these observations, the writ petition is dismissed.

(NITIN B. SURYAWANSHI, J.)