

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

WRIT PETITION NO.1942 OF 2022

**SHIVAJI RAMCHANDRA KOLSE AND OTHERS
VERSUS
ANNA DAGADU BHOKARE AND OTHERS**

...
Advocate for Petitioners : Mr. R. V. Gore h/f Mr. G. K. Kshirsagar
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 22ND MARCH, 2022

PER COURT :

1. The petitioners are aggrieved by rejection of their application filed under Order XXVI Rule 9 of the Code of Civil Procedure, 1908, for appointment of Court Commissioner for inspection of the suit property. Admittedly, the application is filed at the preliminary stage. Even temporary injunction application is yet to be decided. At this time, the petitioners will have to prove the *prima facie* case. In that view of the matter, this Court is not inclined to interfere in the order impugned in the present petition at this stage.

2. If during the course of trial while recording the evidence the petitioner or either party moves such application the same will be considered by the trial Court on its own merits, without being influenced by this order. With these directions the writ petition is dismissed.

(NITIN B. SURYAWANSHI, J.)