

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

911 WRIT PETITION NO.4705 OF 2022

**DATTARAO VITHOBA CHILGAR DIED RUKHMINBAI DATTARAO
CHILGAR
VERSUS
RADHAKISHAN SADASHIV CHILGAR AND ANOTHER**

...
Advocate for Petitioner : Mr.Patale Amol N.

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CORAM : NITIN. B. SURYAWANSHI, J.

DATE : 27th APRIL, 2022.

PER COURT :

1. The petitioner is aggrieved by the order passed by the learned Jt.Civil Judge, Junior Division, Jintur, below Exh. 21 in R.C.S. No. 22 of 2019, thereby rejecting the application filed by the petitioner seeking the appointment of the Court Commissioner.

2. The petitioner is the original plaintiff, who has filed the suit seeking measurement of the suit land and for fixing the boundaries.

3. It is clear that the petitioner has filed application seeking appointment of the Court Commissioner at the initial stage. In the suit, one of the prayers of the petitioner is seeking appointment of

Taluka Inspector of Land Records (for short "T.I.L.R.") as Court Commissioner for the measurement of the disputed property and for fixing its boundaries. The same cannot be allowed at the initial stage. The trial Court therefore, is justified in rejecting the application filed by the petitioner by giving cogent reasons. No fault is found with the order passed by the trial Court impugned in the present petition.

4. After the parties lead evidence, the petitioner is entitled to renew his prayer for appointment of the Court Commissioner. At that stage, if such application is filed, the trial Court shall decide the same on its own merits, without being influenced by the order impugned in the present petition.

5. With these observations the writ petition is disposed of.

(NITIN B. SURYAWANSHI)
JUDGE

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