

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

939 WRIT PETITION NO.4485 OF 2022

**HANUMANT BABURAO NAIK AND ANOTHER
VERSUS
R. S. MIRGANE AND PRATHAMESH CONSTRUCTION JOINT
ABHIYAN AND OTHERS**

...
Advocate for Petitioners : Mr. Ranjit D. Gaikwad h/f Mr.Kawade
Shrikant G.
...

CORAM : SANDEEP V. MARNE, J.

DATE : 13.10.2022.

PER COURT :

1. By this petition, the petitioners challenge the order dated 11.11.2021 passed by the Civil Judge, Senior Division, Bhok, District Osmanabad, below Exh. 25 in Special Civil Suit No. 10 of 2017. By that order the application filed by the petitioners for appointment of the Court Commissioner has been rejected.

2. It is an admitted position that the trial in the suit is yet to commence. It is trite that before commencement of trial, a Court Commissioner cannot be appointed in order to enable the plaintiff to gather the evidence. The trial Court has cited the decisions of this Court in **Sanjay Namdeo Khandare Vs. Sahebrao Khandare (2001 (2) Mh.L.J. 959** and **Chandrakant Kashinath Dike and Ors. Vs. Satyabhama Vishwanath Dike and Ors. in Writ Petition No. 8877 of**

2013 decided on 17.01.2014 for rejecting the petitioner's application.

3. I do not find any error being committed by the trial Court in rejecting the application of the petitioners.

4. The petition is devoid of any merits and the same is dismissed without any orders as to the costs.

**(SANDEEP V. MARNE)
JUDGE**

mahajansb/