

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

WRIT PETITION NO.5024 OF 2022

**CHANDRABHAGA KANHABA MISAL AND ANOTHER
VERSUS
RAMNATH MAROTI PALVE DIED THROUGH LRS MITHU RAMNATH
PALVE AND OTHERS**

...
Advocate for Petitioners : Mr. Salunke Sudarshan J.
Advocate for Respondents No.1A : Mr. V. P. Savant
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 05th MAY, 2022

PER COURT :

1. The petitioners are aggrieved by the order passed by the Trial Court below Exhibit-33 in R.C.S. No.235/2018, thereby rejecting the application filed by the petitioners under Order 26 Rule 9 of the Code of Civil Procedure, for appointment of Court Commissioner. Admittedly, the suit is at preliminary stage, issues are yet to be framed and the parties are yet to lead evidence. In that view of the matter, the Trial Court is, therefore, justified in rejecting the application at this stage.

2. After the parties lead evidence the prayer for appointment of Court Commissioner can be renewed. If such application is filed by either party, the trial Court shall decide it on its own merits, without being influenced by the order passed below Exhibit-33. With these directions the writ petition is disposed off.

(NITIN B. SURYAWANSHI, J.)