

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

906 WRIT PETITION NO.4317 OF 2020

**BALAJI BAPU MARE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioners : Mrs. M.S. Mhase h/f. Ms. Lex Aquila
AGP for Respondent – State : Mrs. G.L. Deshpande
...

CORAM : SANDEEP V. MARNE, J.

DATE : 05-12-2022

PER COURT :

. Petitioners have challenged the order dated 09.01.2019 passed by the Civil Judge Senior Division, Nilanga rejecting their application for appointment of Court Commissioner for joint measurement of the properties. The trial in the suit is yet to commence and petitioners - plaintiffs are yet to lead their evidence. It is trite that the Court Commissioner cannot be appointed in order to assist the parties to collect the evidence. The impugned order dated 09.01.2019 is therefore set aside.

2. Petitioners – plaintiffs however are at liberty to file an application for appointment of Court Commissioner after recording of evidence and the trial Court shall decide such application on its own merits without being influenced by the observations made either in

the order dated 09.01.2019 or in the present order.

3. With the above observations, the writ petition is disposed of.

(SANDEEP V. MARNE, J.)

GGP