

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

WRIT PETITION NO.9932 OF 2021

**BALASAHEB PUNDLIK ATAKE
VERSUS
VISHWANATH GANGARAM RAYBHOLE AND ANOTHER**

...

Advocate for Petitioner : Mr. Mahesh P. Kale
Advocate for Respondent No.1 : Mr. J. M. Murkute

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 01st JULY, 2022

PER COURT :

1. The petitioner is aggrieved by the order passed below Exhibit-20 in R.C.S. No.367/2019, by the learned Joint Civil Judge, Junior Division, Gangakhed, thereby rejecting the application filed by the petitioner under Order 26 Rule 9 of the Code of Civil Procedure seeking appointment of Court Commissioner.

2. Admittedly, the said application is filed by the petitioner at a premature stage. Even the parties are yet to lead evidence in support of their rival contentions. In that view of the matter, this Court is not inclined to entertain the petition at this stage. Writ petition is, therefore, dismissed with liberty to the petitioner to file application under Order 26 Rule 9 at a subsequent stage after leading the evidence. If such application is filed, the same shall be considered by the trial Court on its own merits and without being influenced by the order impugned in the present petition.

(NITIN B. SURYAWANSHI, J.)