

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

WRIT PETITION NO.11639 OF 2019

TUKARAM SAMBHAJI SHEP
VERSUS
BHIKAJI LAXMAN SHEP AND OTHERS

...
Advocate for Petitioner : Mr. V. P. Golewar h/f Mr. A. R. Joshi
Advocate for Respondent No.1: Mr. B. S. Chondhekar h/f Mr. A. S.
Kadam
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 22nd JULY, 2022

ORDER :

1. The petitioner is aggrieved by the order passed by the 4th Joint Civil Judge, Junior Division, Ambajogai below Exhibit-51 in Regular Civil Suit No.58/2017, thereby appointing T.I.L.R., Ambajogai as Court Commissioner.
2. Having heard the learned Advocates for the respective parties and on perusal of the documents placed on record, it is clear that, the impugned order is passed even before framing of issues. Thus, the application filed seeking appointment of Court Commissioner is premature and the same should not have been allowed by the trial court.

3. This Court has consistently taken a view that the application for appointment of Court Commissioner has to be filed after framing of issues and after the parties adduce their evidence. The impugned order therefore cannot be sustained.

4. In the result, the following order:

ORDER

1. The writ petition is allowed in terms of prayer clause 'C'.

2. The impugned order dated 03-08-2019, passed by the learned 4th Joint Civil Judge, Junior Division, Ambajogai, below Exhibit-51 in Regular Civil Suit No.58/2017 is hereby quashed and set aside.

3. The parties are at liberty to move application for appointment of Court Commissioner at a subsequent stage after they adduce evidence.

4. The trial court shall consider the said application on its own merit and without being influenced by the order impugned in the present petition.

[NITIN B. SURYAWANSHI, J.]