

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

WRIT PETITION NO.12318 OF 2022

**SHRIDHAR DHONDU BHANGALE SINCE DECEASED
THROUGH LRS NALINI SHRIDHAR BHANGALE
VERSUS
HUNA ONKAR RANE DIED AND OTHERS**

...
Mr. Sushilkumar H. Tripathi, Advocate for the Petitioner.

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**CORAM : SANDEEP V. MARNE, J.
DATED : 06th DECEMBER, 2022.**

PER COURT:-

1. The petitioner challenges the order dated 18.02.2022 passed by the Civil Judge, Junior Division, Raver rejecting the application at Exhibit-86 for appointment of Court Commissioner.

2. The suit is filed by plaintiff for injunction and for removal of door and window opening on the West side lane of City Survey No.37. It is petitioner's case that in the sanctioned plan, the Municipal Council has not sanctioned any door or window opening on West side lane of defendant's house and that in violation of that plan, defendants have constructed a door and window opening on West side lane of the house. To prove such construction of door and window opening in the West side lane of the house, plaintiff sought appointment of Court Commissioner.

3. I have gone through the written statement filed by defendants which clearly indicates that in the old house existing at the site there was door and window opening on the West side of the lane, that the lane is a public property, that window and that

the door opening on the West side lane is necessary for cross ventilation. The defendants further contend that in new house also they have retained same window and door as the old house. Thus there appears to be no dispute about construction of door and window opening on the West side lane of the house of defendants. The Trial Court has, therefore, observed in its order that there is no dispute about the above aspect. In my view, therefore, appointment of Court Commissioner to prove existence of door and window opening on the West side lane of the house of defendants is unwarranted.

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

(SANDEEP V. MARNE)
JUDGE