

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

WRIT PETITION NO. 10809 OF 2022

Shaikh Shakeel Shaikh Budhen .. Petitioner

Versus

Shaikh Irfan Shaikh Hasan .. Respondent

Shri Sachin S. Randive, Advocate for the Petitioner.

CORAM : SANDEEP V. MARNE, J.

DATE : 13TH DECEMBER, 2022.

FINAL ORDER :

. This petition is filed challenging order dated 19th August, 2022 passed by the 07th Joint Civil Judge Senior Division, Aurangabad rejecting petitioner's/plaintiff's application for appointment of Court Commissioner for measurement of land.

2. It appears that, application for temporary injunction filed by the plaintiff is yet to be decided and the learned counsel for the petitioner makes a statement that plaintiff has not pressed the application for temporary injunction.

3. The Trial in the suit is yet to commence. The suit is for injunction simplicitor without any allegation of encroachment by the defendant. The plaintiff himself has pleaded in the plaint that he has got the suit land measured through Deputy Superintendent of Land Records several times and fixed

boundaries thereof.

4. In that view of the matter no error is committed by the trial Court in rejecting plaintiff's application for appointment of Court Commissioner. The petition is devoid of merits and same is dismissed without any orders as to costs.

5. However, after recording of evidence, if, the Trial Court is of the opinion that measurement of land is necessary by appointment of Court Commissioner, the Trial Court will be at liberty to pass necessary orders either on its own or on application made by either of the parties.

[SANDEEP V. MARNE, J.]

bsb/Dec. 22