

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 424 OF 2022

SUKHDEO LAXMAN DHANGAR (AGONE) AND ANOTHER
VERSUS
DHARMA HIMMAT PATIL AND OTHERS

...
Advocate for Petitioners : Mr. Girish N. Kulkarni (Mardikar)
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 12-01-2022

PER COURT :-

This petition impugns order dated 28.10.2021 passed below Exhibit-40, in Regular Civil Suit No. 99 of 2015, by the learned 2nd Joint Civil Judge, Junior Division, Chalisgaon, thereby rejecting application of petitioner for appointment of court commissioner.

2. Heard learned Advocate for the petitioner.

3. The suit is filed by the petitioners-plaintiffs seeking declaration and injunction in respect of the suit property. The petitioners have categorically pleaded in the plaint that, the ancestral property was partitioned and the petitioners have received one share and one share have received by respondent no.3-original defendant no.3. The burden to prove that the suit

property is an ancestral property, is on the petitioner-plaintiff. In that view of the matter, the trial Court has rightly rejected the application seeking appointment of court commissioner filed by the petitioners as it would amount to collection of evidence.

4. No illegality or perversity is found in the impugned order.
5. Writ petition is, therefore, dismissed. No costs.

(NITIN B. SURYAWANSHI)
JUDGE

rrd