

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

SHALIKRAM
PRALHADRAO
BOREY

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WRIT PETITION 7103 OF 2022

Anil Krushna Kale & Ors.

... Petitioners.

Versus

Smt. Godabai @ Godavari Agatrao
Pawar & Ors.

... Respondents.

Mr. S. P. Rajepandhare, Advocate for the Petitioners.

CORAM : ROHIT B. DEO, J.

DATE : JUNE 17, 2022

P.C. :-

1. Petitioners are the Defendants 2 to 6, who are aggrieved by the order dated 19.03.2022 rendered by the 2nd Joint Civil Judge, Junior Division, Pandharpur, in Regular Civil Suit 58 of 2018, whereby the Application ("Exh. 52") preferred by Defendants 2 to 6 for appointment of the Court Commissioner is rejected.

2. The suit is brought for partition and separate possession.

3. According to Defendants 2 to 6, the suit is not properly valued and the court fee paid is insufficient. This contention is predicated on the assertion that in the cross-examination, the Plaintiff admitted that Defendants 1 to 6 have constructed the house on the suit property, which is not considered to

determine the valuation.

4. The Defendants 2 to 6 are seeking appointment of Court Commissioner to inspect the suit house and record the area and the dimensions and to ascertain the valuation.

5. I am told that the learned trial Court has already framed an issue on the aspect of valuation of the suit. The said issue would be answered on the basis of the evidence led. At this stage, the question of appointing Court Commissioner to measure the area and dimensions of the house which, according to Defendants 2 to 6, is constructed, just does not arise. In any event, if the Court finds that the suit is not properly valued, at any stage of the proceedings, Plaintiffs can be directed to make good the court fees.

6. I see no reason to interfere in writ jurisdiction.

7. The Petition is dismissed.

(ROHIT B. DEO, J.)

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