

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4795 OF 2022

Vanita Hukumchand Khairkar __ Vs. __ The State of Maharashtra and ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Amit Kukdey Advocate for petitioners
Mr. N.R.Patil, AGP for respondent Nos.1 to 4

CORAM : AVINASH G. GHAROTE, J.
DATE : 11/10/2022

1] Heard Mr. Kukdey, learned counsel for the petitioner and Mr. Patil, learned AGP for respondents.

2] The impugned order dated 24.3.2022 rejects the application seeking appointment of a Court Commissioner (pg.55). The suit filed by the petitioner/plaintiff is for declaration, mandatory and permanent injunction in which the declaration is regarding ownership and possession of an area 2.31 HR of field Survey No.220, on the ground that the 7/12 extract indicates the lesser area recorded in respect of field Survey No. 220.

3] In suits of such nature, the resolving of the issue by appointment of a Court Commissioner is always preferable, as that has an effect of setting the controversy to rest finally. This position does not appear to have been considered by the Court below.

4] Learned AGP also does not have any objection for appointment of the Court Commissioner to measure the land in question at the cost of the petitioner, considering which the impugned order is hereby quashed and set aside and the application for appointment of Court Commissioner is allowed.

5] The petition is therefore allowed in above terms. No costs.

JUDGE

Rvjalit