

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.5640 OF 2021

(Ravi Madhukar Ghate and Anr. ...**Vrs**... Suman Wd/o Shankarrao Dhekekar)

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

Court's or Judge's order

Shri. A. J. Thakkar, Advocate for the Petitioners.

CORAM : SMT. M. S. JAWALKAR, J.

DATE : 4th MAY, 2022.

1. Heard Shri. A. J. Thakkar, learned Counsel for the Petitioners.

2. The Petitioners are challenging the order passed by the Civil Judge Junior Division, Karanja, below Exh-25 in Regular Civil Suit No.97 of 2019, whereby the application by the Defendants for appointment of Local Court Commissioner under Order 26 Rule 9 of the Civil Procedure Code was rejected.

3. It was contended that the appointment of Court Commissioner is necessary for bringing the evidence of factual possession of the suit property on record. The learned Civil Judge Junior Division, Karanja after considering the contentions of the parties rejected the application. There is no reason to interfere the reasoned order passed by the Civil Judge Junior Division. The learned Civil Judge Junior Division was right in appreciating that the Order 26 Rule 9 of the Civil Procedure Code clearly states that the Commission to make local investigation can be issued where the Court

deems such local investigation to be requisite for the purpose of elucidating any matter in dispute or for ascertaining market value of the property or the amount of any mesne profits or damages or annual net profits to the property. In view thereof, the application was rightly rejected. No interference in the order passed below Exh-25 is warranted.

4. The petition is, therefore, **dismissed**.

(JUDGE)

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