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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3501 OF 2022

Mukund Devidasrao Navpute

PETITIONER

VERSUS

Sandeep Suvalal Challani

RESPONDENT

.....
Mr. Amol S. Gandhi h/f Mr. Punit S. Mehta, Advocate for
petitioner

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 10th APRIL, 2023

ORDER :

1. By this petition, the petitioner challenges order passed by the learned 10th Join Civil Judge, Senior Division, Aurangabad below Exhibit-35 in Regular Civil Suit No. 1082 of 2012, thereby rejecting the application filed by the petitioner / defendant under Order 26, Rule 9 of the Civil Procedure Code, for appointment of Court Commissioner, for measurement of the suit land.
2. This Court has consistently taken a view that application for appointment of Court Commissioner has to be filed after commencement of recording of evidence.
3. Admittedly, in the present case, application for

appointment of Court Commissioner is filed before recording of evidence commenced. In that view of the matter, this Court is not inclined to entertain the petition under extraordinary writ jurisdiction and the writ petition being devoid of merit is dismissed.

4. Parties are at liberty to file application seeking appointment of Court Commissioner after commencement of recording of evidence. If such application is filed, Trial Court to consider the same on its own merits, without being influenced by the order impugned in the present writ petition.

[NITIN B. SURYAWANSHI]
JUDGE