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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10639 OF 2021

Ramesh Deorao Dake

PETITIONER

VERSUS

MSRTC and Others

RESPONDENTS

.....

Mr. Pankaj A. Bharat, Advocate for the petitioner

Mr. Manoj Shinde, Advocate for respondents No.2 and 3

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 30th MARCH, 2023

ORDER :

1. Challenge in this petition is to the order passed by learned Civil Judge, Junior Division, Shevgaon below Exhibit-24 in RCS No. 291 of 2016, thereby rejecting the application filed by the petitioner – plaintiff for appointment of Court Commissioner.
2. Heard learned advocate for the petitioner and the learned advocate for the respondents. Perused the grounds raised in the writ petition, documents annexed along with it and the impugned order.
3. On perusal of the record, it is clear that the application seeking appointment of Court Commissioner is filed by the

petitioner at a premature stage.

4. It is consistently held by this Court that appointment of Court Commissioner cannot be made at a premature stage and application seeking appointment of Court Commissioner has to be filed after commencement of evidence. Admittedly, in the present case, application for appointment of Court Commissioner was moved even before framing of issues.

5. In that view of the matter, no fault is found with the order impugned in the present writ petition. Writ petition being devoid of merits, is dismissed with liberty to the parties to file application for appointment of Court Commissioner after recording of the evidence commences. If such application is filed at that stage, the Trial Court shall consider it on its own merits, without being influenced by the impugned order.

[NITIN B. SURYAWANSHI]
JUDGE