

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.8907 OF 2023

**ABDUL MALIK ABDUL RAHIM
VERSUS
MOHAMMAD MUDDASIR GULAM MAHAMMAD AND OTHERS**

...
Advocate for Petitioner : Mr. Nikhilesh K. Tungar

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 25th JULY, 2023

PER COURT :

1. Petitioner is aggrieved by the order dated 10/02/2023, passed by learned 4th Joint Civil Judge, Senior Division, Beed, below Exhibit-64, in Special Civil Sit No.29/2022, thereby rejecting application filed by the petitioner for appointment of Court Commissioner.

2. Upon hearing learned advocate for petitioner and on going through the memo of writ petition, annexures thereto and the impugned order, this Court is of the opinion that the impugned order is not liable to be interfered with.

3. Admittedly, the application was moved at preliminary stage. This Court has consistently taken a view that application for appointment of Court Commissioner shall not be entertained at preliminary stage and such application can be considered after

recording of evidence of the parties is concluded.

4. In that view of the matter, no fault can be found with the order impugned in present petition. Writ petition being devoid of merits is dismissed with liberty to the petitioners/parties to move application under Order 26 Rule 9 of the Code of Civil Procedure after conclusion of recording of evidence. If such application is filed, the same shall be considered by the Trial Court on it's own merits without being influenced by the order impugned in the present petition. Hearing of the suit is expedited.

(NITIN B. SURYAWANSHI, J.)