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

**WRIT PETITION NO.4966 OF 2023**

Ramprasad Annasaheb Atole

PETITIONER

VERSUS

Pushpa Arjun Lahane and Others

RESPONDENTS

.....  
Mr. Shrikant G. Kawade, Advocate for the petitioner  
.....

**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 28<sup>th</sup> APRIL, 2023**

**ORDER :**

1. Application filed by the petitioner / plaintiff for appointment of Taluka Inspector of Land Records, Jalna as Court Commissioner, to measure the suit property is rejected by the Trial Court, on the ground that it is the duty of the plaintiff to prove the encroachment.
2. Having heard the learned advocate for the petitioner and after going through the petition memo, annexures and the impugned order, this Court is of the opinion that at this stage, the impugned order need not be interfered.
3. A consistent view is taken by this Court that application for appointment of Court Commissioner may not be entertained till

the recording of evidence commences.

4. In view of aforesaid, by granting liberty to the petitioner to move application for appointment of Court Commissioner, after recording of evidence in the trial commences, the writ petition is disposed of. It is made clear that if such application is filed by either party, the same shall be considered on its own merits, without being influenced by the order impugned in the writ petition.

**[NITIN B. SURYAWANSHI]**  
**JUDGE**