

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6008 OF 2014

Govind Venkat Venjane
and another

.... Petitioners

Versus

Sachin Trimbak Venjane
and another

.... Respondents

.....
Ms. Madhaveshwari S. Mhase, Advocate for the Petitioners.
Mr. R.B. Deshmukh, Advocate for Respondent Nos. 1 and 2
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 21st MARCH, 2023

ORDER :

1. Being aggrieved by the order dated 14/03/2014 passed by the learned Civil Judge, Senior Division, below Exhibit-24 Nilanga in Regular Civil Suit No.304 of 2013, the petitioner is before this Court.

2. By the impugned order, application filed by the petitioners/plaintiffs under Order XXVI Rule 9 of the Code of Civil Procedure at premature stage is rejected by the trial Court.

3. Heard the learned advocate for the petitioners and the learned advocate for the respondents. Perused the grounds raised in the petition, documents placed on record, and the impugned order.

4. In view of the ratio in *Mahadeo Kondiba Shinde Vs. Nitin Sakharam Shinde, 2021 (5) ABR 98* and *Shantaram Dattatray Kekar and others Vs. Bhausahab Karbhari Kekan and another, 2022 SCC OnLine Bom 6466*, it is settled legal position that the application for appointment of Court Commissioner even before framing of issues, and commencement of recording of evidence is premature, and therefore, no fault can be found with the order impugned in the present petition.

4. The petition is, therefore dismissed. However, liberty is granted to the parties to file applicant under Order XXVI Rule 9 of the Code of Civil Procedure, after commencement of recording of evidence. If, such application is filed, the same shall be considered by the trial Court on its own merits without being influenced by the order impugned in the present petition.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane