

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

WRIT PETITION NO.7241 OF 2022

**BABASAHEB DAGADU AGRE AND OTHERS
VERSUS
MACCHINDRA DAGADU ABHALE AND ANOTHER**

...
Advocate for Petitioners : Mr. Sachin S. Deshmukh
Advocate for Respondent Nos. 1 & 2 : Mr. P.B. Shirsath
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 03rd JULY, 2023

PER COURT :

1. Petitioners are aggrieved by the order dated 22/03/2022, passed by learned 2nd Joint Civil Judge, Junior Division, Rahata, below Exhibit-61 in Regular Civil Suit No.351/2018, thereby rejecting prayer of the petitioners for appointment of Court Commissioner.
2. 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.
3. 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.)