

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

WRIT PETITION NO.9444 OF 2023

**SANJAY BHIKAJI GAIKWAD AND OTHERS
VERSUS
RAMBHAU BHIKAJI GAIKWAD**

...
Advocate for Petitioners : Mr. M. B. Kolpe, Advocate h/f
Mr. Vivekanand B. Deshmukh
...

**CORAM : NITIN B. SURYAWANSHI, J.
DATE : 02nd AUGUST, 2023**

PER COURT :

1. Leave granted to correct the prayer clause.
2. Order dated 23/02/2023, passed by learned 2nd Civil Judge, Junior Division, Paranda, Dist. Osmanabad, below Exhibit-28 in Regular Civil Suit No.620/2022, thereby rejecting application filed by the petitioners for appointment of Court Commissioner at preliminary stage, is impugned in the present petition.
3. It is consistently held by this Court that application for appointment of Court Commissioner should not be entertained at preliminary stage and parties are at liberty to file such application after they adduce their respective evidence.
4. After arguing at length on merits, when this Court was not inclined to grant relief, learned advocate for petitioners seeks permission to withdraw the petition with liberty to file such application, after both the parties adduce their evidence. Permission granted. Writ petition is disposed of as withdrawn with liberty as prayed for.

(NITIN B. SURYAWANSHI, J.)