

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

WRIT PETITION NO.9140 OF 2023

**KAMLAKAR SUDAM SHINDE AND OTHERS
VERSUS
THE DISTRICT COLLECTOR AND OTHERS**

...
Advocate for Petitioners : Mr. Swapnil A. Deshmukh
AGP for Respondent Nos.1 to 3 & 5 : Mr. S.R. Yadav Lonikar
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 31st JULY, 2023

PER COURT :

1. Petitioners have challenged the order dated 20/03/2023, passed by learned 4th Joint Civil Judge, Senior Division, Latur, below Exhibit-27 in Regular Civil Suit No.524/2022, thereby rejecting application filed by the petitioners under Order 26 Rule 9 of the Code of Civil Procedure.
2. Plaintiffs/petitioners have filed the suit for permanent injunction. The suit is opposed by the defendants by filing written statement.
3. Admittedly, application Exhibit-5 is yet not decided and issues are yet to be framed. Therefore, the present application filed by the petitioners is premature. 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.

(NITIN B. SURYAWANSHI, J.)