

WRIT PETITION NO.9806 OF 2021

Versus

Mr. R.R. Karpe, Advocate for the petitioners.
Mr. R.A. Tambe, Advocate for the respondent.

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 23rd MARCH, 2023

ORDER :

1. By this petition filed under Article 226 and 227 of the Constitution of India, the petitioners challenge the order passed by learned Civil Judge, Junior Division, Karjat, Ahmednagr, below Exhibit-47 in Regular Civil Suit No. 221/2016.

2. The petitioners are original defendants in the suit filed by the plaintiff for perpetual injunction. There is a dispute between the plaintiff and defendants about the boundary (bandh). After both the parties led their evidence in support of their case, application Exhibit-47 is filed by the respondent seeking appointment of court commissioner, which is allowed by the Trial Court. The petitioners are aggrieved by said order.

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

4. Learned advocate for the petitioners assailed the impugned order contending that by appointment of court commissioner the plaintiff is trying to collect evidence and the application was filed at the fag end of trial, when the matter is posted for arguments of the parties. Hence, the Trial Court should not have allowed the application.

5. Learned advocate for the respondent supported the impugned order.

6. It appears from the record that there is boundary dispute between the plaintiff and defendants. The appointment of court commissioner will help the Trial Court in resolving the boundary dispute between the parties. The discretion exercised by the Trial Court cannot be faulted with. There is no illegality or perversity in the order impugned in the present petition. The writ petition being devoid of merit is dismissed. Interim relief, if any, stands vacated.

[NITIN B. SURYAWANSHI, J.]