

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

8 WRIT PETITION NO.13322 OF 2022

**RAGHUNATH SHIVRAM PATIL SINCE DEAD
THROUGH LRS DNYNESHWAR RAGHUNATH PATIL ALIAS
VERSUS
BABURAO SHIVRAM PATIL SINCE DEAD
THROUGH LRS PARVATABAI BABURAO PATIL SURAWANSHI AND
ANOTHER**

...
Advocate for Petitioner : Mr. Ujwal Subhash Patil

...
CORAM : SHARMILA U. DESHMUKH, J.

DATE : 02-03-2023

PER COURT :

. Heard.

2. The petition is totally misconceived. By an order dated 07.06.2022, the trial Court has appointed Advocate Mr. R.S. Rajput as a Court commissioner for the purpose of executing the compromise decree entered into between the parties.

3. The objection is not to the appointment of the Court Commissioner as the decree is for partition and separate possession, but to the appointment of Advocate Mr. R.S. Rajput as the Court Commissioner.

4. The learned counsel for the petitioner submits that subsequent to the passing of the order of appointment, an objection

has been raised to the appointment of Mr. R.S. Rajput as a Court Commissioner, which objection has not yet been decided by the trial Court. He further submits that direction be issued to the Trial Court to decide the application dated 13.06.2022. It is evident that the petitioner is not seeking to challenge the appointment of the Court Commissioner, but instead seeks the mandamus to the trial Court to decide his application, which jurisdiction cannot be exercised by the Single Judge. In that respect, the petition will lie before the Division Bench.

5. For the reasons above, the petition is devoid of merits and stands dismissed with liberty to petitioner to adopt appropriate proceedings.

(SHARMILA U. DESHMUKH, J.)

GGP