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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4265 OF 2020

Anurath Ashruba Chavan

PETITIONER

VERSUS

Namdev Baburao Sutar (More) and Another

RESPONDENTS

.....
Mr. Vikram S. Undre, Advocate for the petitioner
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 5th JULY, 2023

ORDER :

1. Leave to correct cause title and the prayer clause. Amendment to be carried out forthwith.
2. The petitioner is aggrieved by the order dated 19th June, 2019 passed by learned Joint Civil Judge, Junior Division, Dharur below Exhibit-24 in Regular Civil Suit No. 162 of 2018, thereby rejecting the application filed by the petitioner under Order 26, Rule 9 of the Civil Procedure Code, for appointment of Court Commissioner, for inspection of the suit property and submitting a report.
3. Heard learned advocate for the petitioner. Perused the memo of writ petition, documents annexed along with the same

and the impugned order.

4. Admittedly, the application Exhibit-24 is filed at a preliminary stage, when even the application Exhibit-5 for temporary injunction was to be decided and issues were to be framed. The Trial is yet to commence.

5. In view of the consistent view taken by this Court that Court Commissioner should not be appointed at a preliminary stage, no fault can be found with the order impugned in the present writ petition. No case is made out by the petitioner to exercise extraordinary writ jurisdiction. Writ petition is, therefore, dismissed with liberty to the petitioner to move application seeking appointment of Court Commissioner after recording of evidence is over.

6. If such application is filed, the Trial Court shall consider it in accordance with law on its own merits, without being influenced by the order impugned in the present petition.

[NITIN B. SURYAWANSHI]
JUDGE