

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

66 WRIT PETITION NO.14052 OF 2023

1. PRATAPRAO AMBADASRAO SURYAWANSHI
2. BABITABAI W/O. PRATAPRAO SURYAWANSHI

VERSUS

SHILA VISHWANATH JADHAV

...
Advocate for Petitioners : Mr. Rodge Krishna Pratap
...

CORAM : SHAILESH P. BRAHME, J.

DATE : 06th NOVEMBER, 2023

PER COURT :

Heard.

2. This petition is against an order of rejecting application for appointment of Commissioner filed by petitioners – original plaintiffs. It is filed at the stage prior to settlement of issues which is before commencement of trial. Apparently application exhibit 31 is premature. It is further informed that the suit is posted on 11th March, 2023.

3. Learned counsel for the petitioners submits that the impugned order refers to incorrect fact recorded in para no. 4 regarding possession of the agricultural lands. There appears to be substance in the submission, it is expected to record correct facts.

4. The interference in the impugned order is not possible. The Writ Petition is disposed of. However, the petitioner is at liberty to take recourse of the Order XXVI Rule 9 of the Code of Civil Procedure,

at appropriate stage of the proceedings. The petitioner is at liberty to demonstrate urgency to prepone the suit.

5. This order shall not preclude the learned Judge from entertaining the application of the petitioners filed in future.

[SHAILESH P. BRAHME, J.]

spc/