

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

907 WRIT PETITION NO.5475 OF 2023

Manmath Sidramappa Kurle

.. Petitioner

Versus

Vinayak Maruti Barkule and Another

.. Respondents

...

Advocate for Petitioner : Mr. Apparao Prakash Yenegure

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 15th JUNE, 2023

ORDER :

. Admittedly, the application under Order-XXVI, Rule-9 of the Code of Civil Procedure, 1908 (hereinafter referred to as the 'C.P.C.') is filed before commencement of recording of evidence. This Court has consistently taken a view that the application seeking appointment of Court Commissioner at a premature stage should not be entertained. In that view of the matter, the Trial Court is justified in rejecting the application filed by the petitioner at initial stage. Therefore, there is no substance in the writ petition and the same is dismissed.

2. The parties will be at liberty to file application for appointment of Court Commissioner after commencement of recording of evidence. If such application is filed by either of the

parties, the Trial Court shall consider the same on its own merits without being influenced by the order impugned in the present petition.

[NITIN B. SURYAWANSHI]
JUDGE

GGP