

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1834 OF 2022

Laxmikant S/o Eknath Khilari
and others

.... Petitioners

Versus

Baban S/o. Ganpat Zaware
and others

.... Respondents

.....

Mr.Yuvraj V. Kakade, Advocate for Petitioners

Mr. Shivaji T. Shelke, Advocate for Respondent Nos.1 to
5,6(A), 7 to 13 and 15

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 10th JULY, 2023

ORDER :

1. Application filed by the petitioners/plaintiffs seeking appointment of Court Commissioner is rejected. The petitioner is aggrieved by the said order.

2. The petitioners/plaintiffs filed Regular Civil Suit No. 291 of 2020 seeking measurement and fixation of boundaries and permanent injunction against respondents/defendants. During the pendency of the suit, application Exhibit-61 is filed for appointment of Taluka Inspector of Land Records as a Court Commissioner. The said application is rejected by the Trial Court holding that at that stage it is not proper to appoint

the Court Commissioner, by relying on the decision of this Court in ***Sangita Machhindra Thorat Vs. Changunabai Raosaheb Belote*** (Writ Petition No.89 of 2019), wherein this Court has held that the Court Commissioner can be appointed after recording oral evidence is concluded.

3. Having heard the learned advocate for the petitioners and the learned advocate for the respondents, and after perusing the record, this Court is of the view that the Trial Court is justified in rejecting the application at this stage. Recording of evidence is yet to commence in the trial. After conclusion of recording of evidence, if either party makes application for appointment of Court Commissioner, the Trial Court shall consider the same on its own merits, without being influenced by the order impugned in the present petition.

4. With these observations, the writ petition is disposed of.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane