

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11878 OF 2022

Pandurang Ramdas Dhokne

PETITIONER

VERSUS

Gorakshnath Sukhdev Dhokne and Others

RESPONDENTS

.....

Mr. Sambhaji B. Tarde, Advocate for the petitioner

Mr. D. G. Nagode, Advocate for respondents No.1 to 3

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 8th JUNE, 2023

ORDER :

1. The respondents - plaintiffs filed Regular Civil Suit No. 486 of 2021 for measurement of the suit property and fixing the boundaries, with a prayer for appointment of court commissioner for that purpose. In the said suit, the plaintiff filed application Exhibit-7, at the initial stage for appointment of court commissioner for measurement of the land, which is allowed by the Trial Court, hence, the present petition.

2. Heard learned advocate for the petitioner and the learned advocate for the respondents. Perused the memo of the writ petition and the documents annexed with the same.

3. This Court has taken a consistent view that appointment of Court Commissioner should not be made at a premature stage and it should be made only after commencement of recording of evidence. Admittedly, in the case in hand, order of appointment of court commissioner is passed at initial stage and the same is, therefore, unsustainable.

4. In the result, writ petition is allowed. Impugned order dated 13th September, 2022 passed by Civil Judge, Junior Division Rahuri below Exhibit-7 in Regular Civil Suit No. 486 of 2021 is quashed and set aside.

5. Parties are at liberty to file application for appointment of court commissioner after commencement of recording of evidence. If such application is filed by either party at that stage, the same shall be considered on its own merits, without being influenced by the order impugned in the present petition.

[NITIN B. SURYAWANSHI]
JUDGE