

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.1734/2023
(Dinabandhu V Shrikrushna)

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Mr. Mahesh Rai, Adv for petitioner.

CORAM : AVINASH G GHAROTE, J.
DATE : 20-03-2023

The petition questions the order dated 8-3-2022, whereby in exercise of power under Section 39 of the Civil Procedure Code, the Court Commissioner has been appointed for inspection of the property, which is the subject matter of the suit. In pursuance of such order, inspection has already been carried out by the Court Commissioner and the report thereto dated 26-4-22 has also be placed on record.

2. Since, there is a dispute regarding who is in actual possession, Order 39 Rule 7 (a) of the Code of Civil Procedure, confers discretion upon the Court to appoint Court Commissioner for inspection of the property. Nothing has been pointed out to digress from the reasons given by the trial Court for inspection, considering which, I do not see any reason to interfere in the impugned order. Petition is dismissed.

3. Needless to say that it is open for the petitioner to raise any objection to the Commissioner's report, as the law permits to him.

JUDGE

Deshmukh