

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

WRIT PETITION NO.6069 OF 2023

(Lunkaram s/o Jagannathji Chandak Vs. Bank of India, thr. its Managing Director
(M.D.) cum Chief Executive Officer (C.E.O.), Mumbai and others)

*Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's Orders.*

Court's or Judge's orders.

 Ms. Surabhi Godbole, Advocate h/f Mr. Prakash Naidue, Advocate for
 Petitioner.

CORAM: ANIL S KILOR, J.

DATE: 12th SEPTEMBER, 2023.

In a suit for recovery of amount filed by the petitioner, he applied for appointment of Commissioner under Order 26 Rule 9 and 10-A of the Code of Civil Procedure with the following prayer clause:

Prayer: It is therefore most humbly prayed that Hon'ble Court be pleased to appoint Deputy Executive Engineer of P.W.D. Department Saoner to make local investigation of the damages caused to the premises of the plaintiff, to ascertain the cost of such paining, repairs, installation and construction of the structures and fixtures in the premises of the plaintiff by scientific investigation in the interest of justice.

2. The learned trial Court has found that the application for appointment of Commissioner was made with the purpose to collect the evidence, whereas, the burden lies on the plaintiff to prove the fact of damages caused to him. Accordingly, the application came to be

dismissed vide impugned order dated 31.07.2023.

3. After going through the application for appointment of Commissioner and the prayer clause. I find that the reasons recorded by the learned trial Court is just and proper. Hence, there is no merit in the present writ petition, accordingly it is dismissed.

(ANIL S. KILOR, J.)