

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

WRIT PETITION NO. 7421 OF 2019

Dnyaneshwar Rambhau Krupal and anr__ Vs. __Kisan Suryabhan Sawdatkar thr L.Rs
and ors

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

Court's or Judge's orders

Mr. Abhay Sambre, Advocate for petitioners
Mr. V.G.Wankhede, Advocate for respondent Nos. 1 to 5

CORAM : AVINASH G. GHAROTE, J.
DATE : 28/03/2023

1] Heard Mr. Sambre, learned counsel for the petitioners and Mr. Wankhede, learned counsel for the respondents.

2] The petition challenges the order below Exh.49, dated 17.10.2019 (pg.18), whereby the application for appointment of the Court Commissioner has been allowed by the learned Executing Court.

3] It is submitted that the application is filed for appointment of Court Commissioner, indicates that the appointment was sought to collect evidence, which was not permissible and therefore the impugned order is liable to be quashed and set aside.

4] It is necessary to note that the application for appointment of the Court Commissioner was filed in pursuance to the judgment dated 1.8.2019 by this Court

in Writ Petition No. 185/2019 (pg.97), in which this Court itself has spelt out the need for appointment of a Commissioner. The judgment dated 1.8.2019 has not been challenged further, as a result of which it has attained finality. May be a different reason has been given in the application for appointment of Commissioner, that however does not deter from the fact that the need for appointment of Commissioner is spelt out by this Court in the judgment dated 1.8.2019, in view of which I do not see any reason to interfere in the impugned order dated 17.10.2019 passed below Exh.49. The petition is therefore, dismissed. No costs.

JUDGE

Rvjalit