



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 WRIT PETITION NO. 9505 OF 2024

LAXMAN SURYABHAN PAWAR AND ANOTHER
VERSUS
ASHOK SURYABHAN PAWAR

...

Advocate for the Petitioner : Mr. D. A. Mane & Mr. Pankaj A. Bharat

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CORAM : ARUN R. PEDNEKER, J.

DATE : 03rd SEPTEMBER, 2024

PER COURT:

1. Heard.
2. In the suit for partition after leading his evidence in the matter, the suit is fixed for cross-examination of the plaintiffs / petitioners. The petitioners moved an application under Order 26 Rule 9 for appointment of the court commissioner for measurement of the suit land indicating respective possession of the parties. The trial court has rejected the same on the ground that the partition itself has been disputed and that the defendant has taken a plea that there is no partition qua the suit property. As such, exclusive possession of the suit property, so also, exclusive ownership of the plaintiffs over the suit property is denied by the defendant.

3. In view of the same, I see no reason to interfere in the order of the trial court.

4. The learned counsel for the petitioners submits that if the occasion arises, liberty be reserved for the petitioners to file application for appointment of the court commissioner, after the evidence of the parties are over.

5. Liberty is reserved, as prayed. However, if such an application is filed, the court to decide the same in accordance with law.

6. The writ petition is dismissed.

[ARUN R. PEDNEKER, J.]

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