



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

38 WRIT PETITION NO. 9752 OF 2024

SURESH KRUSHNA CHAUDHARI

VERSUS

DIGAMBAR YASHWANT PATIL DIED THROUGH LRS ANUSAYA
DIGAMBAR PATIL AND OTHERS

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Advocate for the Petitioner : Mr. Kulkarni Bhargav Bhushan

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CORAM : ARUN R. PEDNEKER, J.

DATE : 09th SEPTEMBER, 2024

PER COURT:

1. Heard.
2. The application filed by the plaintiff for the appointment of the court commissioner has been rejected on the count that it would amount to collection of the evidence on behalf of the plaintiff. The petitioner / plaintiff has filed suit simplicitor for injunction claiming that the respondents / defendants have made some holes in the roof of the tenanted premises of the petitioner and the goods kept in the tenanted premises are also being destroyed by the respondents. Accordingly he sought injunction against the defendants qua the suit property.
3. The application for appointment of the court commissioner is rightly rejected as the trial court cannot gather evidence

for the petitioner. The Commissioner cannot submit report as regards the factual dispute and, no evidence can be collected as regards, whether there is interference in the tenanted property held by the petitioner and the commissioner cannot give any opinion, whether the defendants have been interfering with the goods of the petitioner in the tenanted premises.

4. All these aspects has to be proved by the petitioner / plaintiff in the civil suit. However, after leading evidence by both the parties if there is any doubt as regards the evidence and further elucidation of the evidence is required, at that stage, the petitioner / plaintiff may apply for appointment of the court commissioner and, if, such an application is filed, the court would consider the same in accordance with law without being influenced by the observations made by this court.

5. The writ petition stands disposed of.

[ARUN R. PEDNEKER, J.]

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