



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
927 WRIT PETITION NO. 4218 OF 2023

Sandeepak Kotumal DaultaniPetitioner

VERSUS

Aarti Sanjeev HujoorbazarRespondent

Mr. P. P. Dhorde, Advocate for the Petitioner.
Mr. S. V. Dixit, Advocate for Respondent.

CORAM : R. M. JOSHI, J.
DATE : 3rd JULY, 2024.

PER COURT :

1. By consent of learned counsel for both sides, heard finally at admission stage.

2. Petitioner/Defendant in Regular Civil suit NO. 404/2010 takes exception to order dated 24.08.2022 passed below Exhibit 82 wherein his application for appointment of Court Commissioner was rejected by the Trial Court.

3. Regular Civil Suit No 404/2010 is filed by Respondent/landlord against the Petitioner for possession of the suit premises on the ground of bonafide requirement. The said suit is opposed by the Defendant. Plaintiff has led evidence and it is the

contention of the learned counsel for Defendant that certain admissions are given in the cross-examination which are favourable to the Defendant. It is his submission that in order to bring on record fact as to the working of the Plaintiff in the suit premises and also to prove that there are number of hospital in the vicinity, appointment of Court Commissioner is necessary.

4. This contention is opposed by learned counsel for Respondent/original Plaintiff on the ground that the Trial Court has rightly rejected the application by recording a reason that Court Commissioner would not be appointed to prove the case of any party.

5. Perusal of the dispute involved in the present suit indicates that appointment of Court Commissioner is absolutely not necessary. It is always open for the Defendant to substantiate his contention by leading appropriate evidence. It is trite that the Court Commissioner can never be appointed to collect evidence on behalf of any party. This Court, therefore, finds no perversity in the impugned order. Petition stands dismissed.

(R. M. JOSHI)
Judge