



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

930 WRIT PETITION NO. 178 OF 2022

**VAISHALI WARDHAMAN KALA AND OTHERS
VERSUS
PARESH KISHORCHAND DUGGAD AND OTHERS**

...
Advocate for the Petitioners : Adv.P.S.Shendurnikar
Advocate for Respondent nos.1 to 3 : Adv.J.R.Nawale h/f.
Adv.V.D.Salunke

...
CORAM : ARUN R. PEDNEKER, J.

DATE : 26.04.2024

P.C. :

1] Heard the learned counsel for the parties.

2] The learned counsel for the petitioners submits that the order appointing Court Commissioner is challenged on the ground that the said application is at the preliminary stage and the trial Court ought not to have allowed the said application and it amounts to collection of evidence. The learned counsel for the petitioners further submits that now the evidence of the plaintiff is over, as such, the fresh application can be entertained by the trial Court and the same can be decided on merits.

3] Since the evidence of the plaintiff is over and the application was allowed by the trial Court at the preliminary stage, it would be appropriate to set aside the

impugned order of the trial Court and grant liberty to the respondents to move fresh application and the trial Court after considering the evidence placed on record decide the application without being influenced by it's earlier order of this Court.

4] Writ Petition is disposed of accordingly.

[ARUN R. PEDNEKER]
JUDGE

DDC