

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7031 OF 2016

Yunis Bashir Nadaf & Anr.

... Petitioners

V/s.

Niyaj Azim Nadaf & Ors.

... Respondents

SHABNOOR
AYUB
PATHAN

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Mr. Kalpesh U. Patil for petitioners.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 18, 2024

P.C.:

1. In a suit seeking declaration in respect of easement of prescription, the petitioner filed an application for appointment of the Court Commissioner under Order 39, Rule 7 of the Code of Civil Procedure, 1908. The Trial Court rejected the application on the ground that the appointment of Court Commissioner is not necessary.
2. Considering the pleadings of the parties, I have perused the issues framed by the Trial Court at Exhibit 29. The issue in relation to width of the subject-matter of the role has not been framed. Therefore, the impugned order need not be interfere. However, it shall be open for the petitioners to apply for appointment of the Court Commissioner.
3. The writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)