



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1201 OF 2024

Sau. Alka Anilrao Chahare and others .Vs. Shri Rushiram alias Rushiraj Radhesham
Somani and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.M. Chandekar, Advocate for petitioners.

CORAM : ANIL S. KILOR, J.

DATED : 22/02/2024

1. The application for appointment of Court Commissioner under Order 39 Rule 7 of the Code of Civil Procedure to find out the actual position of the suit property and the fact who is in actual possession of the suit property was the purpose which was denied by the learned trial Court vide order dated 19.01.2024.

2. Shri Chandekar, learned counsel for the petitioners submits that, to bring on record the exact description of the suit property, the application was moved. Whereas, the prayer clause says that, even for the purpose to find out who is in possession, the application was filed. Therefore, the learned trial Court has rightly rejected the application on the ground that, it amounts to collection of evidence which cannot be permitted and further as far as

description of the property is concerned, it is the burden on the plaintiff to prove it with the fact of the possession.

3. In the circumstances, since I do not find any error committed by the learned trial Court, the writ petition is **dismissed**.

JUDGE