



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

WRIT PETITION NO.2289 OF 2024

Shudhdodhan Parisnath Ramteke and others .Vs. Smt. Chhaya Vilas Bhagat 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 C.N. Deshpande, Advocate for petitioners.

CORAM : ANIL S. KILOR, J.

DATED : 12/04/2024

1. The order below Exh.17 dated 03.02.2024 allowing the application for appointment of Court Commissioner under Order 26 Rule 9 of the Code of Civil Procedure (CPC) passed by the Civil Judge Junior Division, Umred, is under challenge in this writ petition.

2. In a suit for possession and mandatory injunction the respondents filed an application under Order 26 Rule 9 of the CPC.

3. It is the case of the plaintiff that, the defendant has encroached upon the suit property of the plaintiff and for conducting such enquiry prayer was made for appointment of Court Commissioner. The learned trial Court while allowing the application has observed thus :

“5. The plaintiff has filed suit for possession, mandatory and perpetual injunction. According to him, the defendant has encroached upon the suit property owned

by the plaintiff. The defendant has submitted that, there is no necessity to appoint the Court Commissioner at the stage of evidence. Considering, the nature of suit and facts on record, it is essential to appoint Court Commissioner to make clear the actual and factual position of suit property which will help in deciding the real controversy between the parties.”

4. From the above referred reasons recorded by the learned trial Court, I do not find any error committed by the learned trial Court. Accordingly, the writ petition is **dismissed.**

JUDGE