



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

Writ Petition (WP) No. 4558 of 2024

Narayan S/o Rajaram Gadhe

Versus

Narahari S/o Totaram Sultane

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

Court's or Judge's Order

Shri A.V.Bhide, Advocate for the petitioner.

Shri NB.Karade, Advocate for the respondent.

CORAM : N.R.BORKAR, J.

DATED : 5th SEPTEMBER, 2024.

This petition takes exception to the order dated 27th June, 2024 passed by the learned Joint Civil Judge, Junior Division, Shegaon in Regular Civil Suit No. 2 of 2019.

2. The petitioner herein has filed a suit for declaration and perpetual injunction.

3. By the order impugned the learned trial Court has rejected the application filed by the petitioner for appointment of Court Commissioner.

4. The learned counsel for the petitioner submits that the application was moved with a view to

bring on record only physical features of the suit properties. It is submitted that the learned trial Court has, however, rejected the application on erroneous ground.

5. On the other hand, learned counsel for the respondent submits that the evidence of the parties is over and the suit is at the stage of final argument. It is submitted that the learned trial Court has, thus, rightly rejected the application.

6. I have perused the impugned order. The learned trial Court has rejected the application on the ground that the petitioner has already examined four witnesses in support of his case and the suit is at the stage of final argument. However, there is no finding that considering the nature of dispute between the parties there is no need of appointment of court commissioner as sought. The order impugned therefore cannot be allowed to stand and the same is set aside. The learned trial Court shall decide the application at Exhibit 55 afresh in accordance with law.

7. The writ petition is disposed of in aforesaid terms.

[N.R.BORKAR, J.]