

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

1024 WRIT PETITION NO. 3730 OF 2023

ANUSAYABAI RAMHARI DAREKAR AND ANOTHER
VERSUS
MANSUB PANDURANG PAWAR

...
Advocate for the Petitioners : Mr. Patni Pramod Fulchand
Advocate for Respondent : Mr. Rahul Omprakash Awasarmol
...

CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 10.12.2025

PER COURT :

1. Heard the learned Counsel for the respective parties.
2. By way of present petition, the petitioners are challenging the order dated 01.02.2022 passed below Exhibit 26 by the 2nd Joint Civil Judge Junior Division at Kannad in Regular Civil Suit No. 12 of 2020, whereby, the application filed by the petitioners for appointing the Court Commissioner under Order XXVI Rule 9 of the Code of Civil Procedure came to be rejected.
3. The petitioners/Original Plaintiffs filed a suit for declaration and injunction in which the issues were yet to be framed and application for appointment of Court Commissioner has been filed by the petitioners before framing of issues.
4. I have gone through the order passed by the learned trial

Court, wherein it has recorded a finding that parties have not led their evidence yet and as it is settled principle of law that Court Commissioner cannot be appointed for collection of evidence. Therefore, I do not find any reason to interfere with the order dated 01.02.2022 passed below Exhibit 26 by the 2nd Joint Civil Judge Junior Division at Kannad in Regular Civil Suit No. 12 of 2020 under Article 227 of the Constitution of India.

5. In view thereof, the Writ Petition is dismissed. No order as to cost.

6. The petitioners are at liberty to file fresh application for appointment of Court Commissioner after leading their evidence.

(SIDDHESHWAR S. THOMBRE, J.)

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