



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6892 OF 2025

GANGU GONJI GAVIT AND ANOTHER
VERSUS
STATE OF MAHARASHTRA THROUGH
COLLECTOR AND OTHERS

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Advocate for the Petitioner : Mr. Ajinkya A. Joshi h/f.
Mr. Natu Sharad V.
AGP for Respondents: Mr. B.B. Bhise

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CORAM : ABASAHEB D. SHINDE, J.

DATE : 12.12.2025

PER COURT:

1. Heard.
2. The petitioner takes an exception to the order dated 21.10.2023 passed below Exhibit-20 in Regular Civil Suit No.59 of 2023 by the learned Joint Civil Judge, Senior Division, Nandurbar, whereby, the application filed by the petitioner - original plaintiff seeking appointment of a Court Commissioner under Order XXVI Rule 9 of the Code of Civil Procedure for ascertaining the factual position with regard to the suit property came to be rejected.
3. Learned counsel for the petitioner draws attention of this Court to the findings recorded by learned trial court in paragraph 6 and urges that the said findings are perverse for the reason that unless the

location of suitable site is ascertained, the issue involved in the suit cannot be decided and, therefore, it is expedient in the interest of justice to allow the appointment of Court Commissioner.

4. After considering the submissions advanced, I find that admittedly, there is no boundary dispute involved in the suit. It is only a matter of ascertaining the suitability of the land, which can be done on the basis of the evidence led by the parties. I do not find any perversity in the order passed by the learned trial court, however, since the application was moved even before the Exhibit-5 application could be decided, I am inclined to grant liberty to the petitioner to file a fresh application at an appropriate stage after the evidence is completed, if such an application is filed, the same would be decided by the learned trial court on its own merits in accordance with law.

5. Keeping the said liberty open, the writ petition stands disposed of.

(ABASAHEB D. SHINDE, J.)