



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

977 WRIT PETITION NO. 5823 OF 2023

ARVIND BHATU SONJE THROUGH NEX FRIEND HEMRAJ ARVIND
SONJE
VERSUS
DHULE MUNICIPAL CORPORATION THROUGH COMMISSIONER

...
Mr. Pratap P. Mandlik – Advocate for Petitioner
Mr. N.N. Desale – Advocate for Respondent
...

CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 12.12.2025

PER COURT :

1. Heard learned Counsel for the respective parties.
2. By way of this petition, the petitioner challenges the order dated 24.02.2023 passed below Exhibit 32 in Regular Civil Suit No.248 of 2017 by the learned Civil Judge, Senior Division, Dhule, whereby the application filed by the petitioner for appointment of a Court Commissioner to measure the suit property came to be rejected.
3. Learned Counsel for the petitioner submits that the petitioner/original plaintiff, filed an application for appointment of a Court Commissioner for measurement of the suit property, preparation of a map and to call its report and map for just decision of the suit. He submits that in the plaint, more particularly in paragraph 3, the petitioner

has specifically narrated the boundaries and the area allegedly encroached upon wherein excess construction has been carried out by the defendants. He submits that contrary averments have been made by the defendants, therefore, to ascertain the factual position, appointment of a Court Commissioner is necessary.

4. Per contra, learned Counsel for the respondent/original defendant points out that issues have been framed and the evidence has not yet commenced.

5. I have gone through the order passed by the learned Trial Court. As far as appointment of a Court Commissioner is concerned, the plaintiff can prove the factual position in respect of the suit property by leading evidence. Therefore, at this stage, it is not proper to permit the original plaintiff to file an application for appointment of a Court Commissioner and the learned Trial Court has rightly rejected the application. Therefore, I am not inclined to interfere with the order dated 24.02.2023 passed below Exhibit 32 in Regular Civil Suit No.248 of 2017 by the learned Civil Judge, Senior Division, Dhule, under Article 227 of the Constitution of India.

6. In view thereof, the petition is dismissed. No order as to costs.

7. However, considering the issues involved, the petitioner is granted liberty to file a fresh application after the parties have led their evidence

and the same shall be decided by the learned Trial Court on its own merits without being influenced by the earlier order.

[SIDDHESHWAR S. THOMBRE]
JUDGE

Pooja Kale/