



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

1005 WRIT PETITION NO. 6007 OF 2022

INDUMATI VIJAY PARMAR

VERSUS

**EXECUTIVE ENGINEER GODAVARI
WATER CONSERVATION DEPARTMENT AND OTHERS**

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Advocate for the Petitioner : Mr. Kulkarni Sanket S.

AGP for Respondent/State : Mr. D.R. Korde

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 10.12.2025

PER COURT :

. Heard learned counsel for respective parties.

2. By way of present petition, the petitioner challenges the order dated 28.04.2022 passed below Exh.22 in R.C.S. No.252 of 2020 by learned Civil Judge Senior Division, Rahata whereby the application filed by the original-defendant for appointment of Court Commissioner came to be allowed.

3. Learned counsel for the petitioner submits that the petitioner/plaintiff filed suit for simpliciter injunction. None of the parties have led the evidence and original defendant filed an application for appointment of Court Commissioner, the learned trial court has ordered that by appointment of Court Commissioner, actual facts about the disputed spot could be brought on record. Such observation is contrary to the settled law that Court Commissioner can not be appointed to

collect the evidence. As the parties have not led evidence, therefore, learned trial court ought not to have allowed the application.

4. I have gone through the order passed by learned trial court. It reveals that learned trial court has recorded the findings that actual fact of encroachment on the disputed spot can be brought on record by allowing the application, which is contrary to the settled law that Court Commissioner can not be appointed to collect evidence.

5. Therefore, I am inclined to allow the present petition thereby thereby setting aside the order passed by learned trial court.

6. In view thereof, the Writ Petition is allowed. The order dated 28.04.2022 passed below Exh.22 in R.C.S. No.252 of 2020 by learned Civil Judge Senior Division, Rahata is quashed and set aside.

7. All the points are kept open.

(SIDDHESHWAR S. THOMBRE, J.)

vsj..