



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

997 WRIT PETITION NO. 9334 OF 2022

VIJAYSINGH KRUSHNARAO MOHITE

VERSUS

KESHAV TRIMBAKRAO SHELKE AND ANOTHER

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Advocate for the Petitioner : Mr. Gore Ravindra Vitthal

Advocate for Respondent No.1 : Mr. Nagargoje Ankush Nivrutti

Advocate for Respondent No.2 : Mr. Vaidya Ameet R.

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 09.12.2025

PER COURT :

. Heard learned counsel for the petitioner, learned counsel Mr. Nagargoje for Respondent No.1 and learned counsel Mr. Vaidya for Respondent No.2.

2. The petitioner challenges the order dated 18.07.2022 passed below Exhibit-36 by Civil Judge Senior Division (Corporation Court), Aurangabad in R.C.S. No.84 of 2013 whereby, application filed by the petitioner for appointment of Court Commissioner came to be rejected.

3. Learned counsel for the petitioner submits that the suit is for perpetual injunction and the petitioner has filed counter claim in the suit. After the evidence of original plaintiff, the application for appointment of Court Commissioner was filed to ascertain the actual possession of the original plaintiff. Therefore, he prays that the learned trial court ought to have allowed the application.

4. I have gone through the order passed by learned trial court. The suit is for perpetual injunction and petitioner has filed counter claim for recovery of possession, therefore, it is just for the trial court to consider the matter after both the parties have led their evidence.

5. As far as the appointment of Court Commissioner is concerned, the law is settled that the Court Commissioner can not be appointed to collect the evidence. Therefore, I find no reason to interfere with the order dated 18.07.2022 passed below Exhibit-36 by Civil Judge Senior Division (Corporation Court), Aurangabad in R.C.S. No.84 of 2013 under Article 227 of the Constitution of India.

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

(SIDDHESHWAR S. THOMBRE, J.)

vsj..