

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

139 WRIT PETITION NO. 6022 OF 2023

KUSUMBAI RAJENDRA MHASKE
VERSUS
HARISHCHANDRA VITTHALRAO MHASKE AND OTHERS

...
Advocate for the Petitioner : Mr. Dharurkar Chaitanya V.
Advocate for Respondent Nos. 1, 4 and 5 : Mr. Subhedar Mayur
Mangesh
Advocate for Respondent No. 3 : Mr. Savant Vilas P.
...

CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 15.12.2025

PER COURT :

1. Heard the learned Counsel for the respective parties.
2. By way of present petition, the petitioner assails the order dated 20.08.2022 passed below Exhibit 39 by 9th Joint Civil Judge Junior Division, Beed in whereby the application filed by the petitioner for appointment of the Court Commissioner came to be rejected.
3. Learned Counsel for the petitioner submits that in the instant matter the stage of evidence is now commenced and the plaintiff has filed his affidavit of examination-in-chief.
4. On earlier occasion also the petitioner has filed an application for appointment of Court Commissioner, which was rejected on 15.12.2015 by the trial Court, aggrieved by which he filed Writ Petition No. 1237 of 2016, which was withdrawn by him with a liberty to

file fresh application, if and when necessary.

5. Now the stage of evidence is commenced and it is settled principle of law that the Court Commissioner cannot be appointed unless the party applying for the same has led his evidence, therefore, I am not inclined to interfere with the order dated 20.08.2022 passed below Exhibit 39 by 9th Joint Civil Judge Junior Division, Beed under Article 227 of the Constitution of India.

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

7. The petitioner is at liberty to file fresh application after he has led his evidence and the trial Court shall consider the same on its own merit.

(SIDDHESHWAR S. THOMBRE, J.)

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