

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10545 OF 2023

Balu Radhu Nehe

VERSUS

The Forest Officer Division No. 1 And Others

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Advocate for the Petitioner : Mr. Shinde S.K.

AGP for Respondent/State : Mr. P.P. Dawalkar

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATED : DECEMBER 18, 2025

PER COURT :

1. Heard learned counsel for the petitioner.
2. By way of present petition, the petitioner challenges the order dated 19.07.2022 passed below Exhibit-70 by the learned Civil Judge, Senior Division, Sangamner in R.C.S. No.334 of 2014, whereby the application filed by the petitioner for appointment of Court Commissioner came to be rejected.
3. Learned AGP vehemently opposed for entertaining the present petition on the ground that as the suit is for declaration, it is a settled law as far as suit for declaration, normally, appointment of Court Commissioner is not required.
4. In view thereof, the contention of the learned AGP cannot be accepted for the simple reason that this is not a case wherein the petitioner is asking for appointment of Court Commissioner afresh. Because the Court Commissioner is already appointed and admittedly,

the said order was not challenged by respondent and it has attained finality, therefore, only to prove the same, the petitioner wants to appoint the Court Commissioner afresh. Therefore, the contention raised by the learned AGP cannot be considered.

5. After having gone through the record and after hearing the respective counsels, there is no dispute about the fact that earlier to this, the Court Commissioner was appointed by the Court and report was submitted but during pendency of the proceeding, on 16.03.2022, the Court Commissioner expired. Therefore, the petitioner filed an application for appointment of another Court Commissioner for the reason that, as the Court Commissioner has expired, the petitioner is not in a position to prove the said report and therefore, the application was filed. In view of the fact that there was already a Court Commissioner appointed and report was submitted and therefore, to prove the same, it was necessary to appoint another Court Commissioner, because ultimately even after the said report is submitted, the petitioner is not in a position to prove the same.

6. In view thereof, I am inclined to allow the petition by setting aside the order passed by the Civil Judge Senior Division below Exhibit-70 dated 19.07.2022.

7. In view of the above, the petition is allowed. The order dated 19.07.2022 passed below Exhibit-70 by the learned Civil Judge,

Senior Division, Sangamner in R.C.S. No.334 of 2014 is quashed and set aside.

(SIDDHESHWAR S. THOMBRE, J.)