

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3422 OF 2025

VISHAL
SUBHASH
PAREKAR

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Ranjana Gorakh Bodke
(Through Holder Samdhan Ghadge)

...Petitioner

vs.

Santosh Bhagwat Keche and Ors.

...Respondents

Mr. Rahul Khot, for the Petitioner.

CORAM : N. J. JAMADAR, J.

DATE : MARCH 06, 2025

P.C:

1. Heard the learned counsel for the petitioner.
2. The challenge in this petition is to an order dated 22nd January, 2025 passed by the learned Civil Judge, whereby an application for appointment of the Court Commissioner referred by the petitioner (defendant No. 5) came to be rejected.
3. The trial Court had earlier appointed a Court Commissioner and the commissioner came to be executed, while defendant No. 5 was impleaded as a co-plaintiff. By an order dated 22nd July, 2024, the defendant No. 5 came to be transposed as defendant from the array of plaintiffs. Thereafter, the defendant No. 5 filed written statement and the instant application for appointment of the Court Commissioner came to be filed on the ground that the earlier commission was executed behind her back and the land of

defendant No. 5 was not measured.

4. The trial Court was of the view that the notices were issued to the plaintiff by the Court Commissioner. Therefore, the defendant No. 5 had knowledge of the said commission proceedings.

5. Evidently, defendant No. 5 was impleaded as a co-plaintiff. It is doubtful whether defendant No. 5, in the capacity of the then co-plaintiff, had knowledge of the proceedings when the plaintiff Nos. 1 and 2 appeared to be in the carriage of the suit.

6. In these circumstances, an arguable question is raised.

7. Issue notice for final disposal to the respondent Nos. 5 to 7 returnable 15th April, 2025.

8. In addition to notice through Court, the petitioner is at liberty to serve the respondent Nos. 5 to 7 by private service and file an affidavit of service.

9. In the meanwhile, there shall be ad-interim relief in terms of prayer clause (c).

(N. J. JAMADAR, J.)