

varsha

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7329 OF 2025**

Vimalbai Nimba Bramhankar (since deceased ... Petitioners
through Legal) and Ors

vs.

Mangalbai Mahadu Khairnar and Ors ... Respondents

Mr. Bhushan Deshmukh for Petitioners.

CORAM : GAURI GODSE, J.

DATED : 20th JUNE 2025

ORDER:

1. Not on board. Taken on production board.
2. This petition is filed by the plaintiffs to challenge the order dated 7th February 2025 appointing the Court Commissioner on an application made by the defendants. The impugned order is purely an interlocutory order which in no manner affects the rights of the parties.
3. No prejudice is caused to the petitioners. The Court Commissioner's report is never conclusive and the petitioners can always file objections to the report, which the trial court is bound to consider. The petitioners can also seek permission to cross-examine the Court Commissioner, at an appropriate stage.

4. Normally, court should be very slow in interfering with such an interlocutory order in its discretionary jurisdiction under Article 227 of the Constitution of India. Moreover, in view of Section 105 of the Code of Civil Procedure, 1908 (“**CPC**”) the impugned order can always be challenged in an appeal against the decree which may be passed in the suit, in the event the decree is adverse to the petitioners.

5. Subject to the aforesaid observations, the petition is dismissed while keeping rights and contentions of the parties in the suit open.

(GAURI GODSE, J.)