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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9166 OF 2025**

Nagesh Shivaji Jagtap and Another ... Petitioners

Vs.

Dnyaneshwar Govind Bagal and Others ... Respondents

Ms. Manisha Devkar for the Petitioners.

Mr. Niranjan Bhavake a/w. Ms. Drishti Madhani a/w. Ms.

Swamini Thakur a/w. Mr. Anurag Ramekar i/b. Bhavake and
Associates for the Respondents.

CORAM : GAURI GODSE, J.

DATE : 14th JULY 2025

ORDER :

1. This petition is filed by the plaintiffs to challenge the order appointing Court Commissioner on an application filed by the defendant at Exhibit-70. The suit is at the stage of recording evidence. The impugned order is purely an interlocutory order which in no manner affects the rights of the parties.

2. 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.

3. 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.

4. Subject to the aforesaid observations, the petition is dismissed by reserving the liberty under Section 105 of CPC and by keeping rights and contentions of the parties in the suit open.

[GAURI GODSE, J.]