

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 15666 OF 2025

Vishwanath Ranba Biradar

VERSUS

The State Of Maharashtra And Others

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Advocate for the Petitioner : Mr. Salve Sachin Trimbak

AGP for Respondent/State : Ms. R.R. Tandale

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : MARCH 23, 2026

PER COURT :-

1. Present petition takes exception to order dated 29.10.2025 passed below Exhibit-101 by learned Civil Judge Senior Division, Udgir in R.C.S. No.17 of 2022, whereby petitioner's application seeking appointment of Court Commissioner has been rejected.

2. The petitioner is original plaintiff. He filed suit seeking relief of declaration and permanent injunction that defendants shall not create any way from land gat no.148/3 owned by plaintiff.

3. The petitioner filed an application below Exhibit-101 seeking appointment of Court Commissioner contending that there is electric pole in between gat nos.148/3 and 148/4 and it is necessary to bring location of said electric pole by appointment of Court Commissioner. The Trial Court refused to entertain said application on the ground that appointment of Court Commissioner would

amount to collection of evidence. The Trial Court has further observed that plaintiff can prove his case by way of documentary evidence or his oral evidence and appointment of Court Commissioner is not necessary for adjudication of suit.

4. This Court finds that observations of Trial Court are in tune with legal and factual position. If plaintiff is claiming relief of declaration and injunction to prevent defendant from creating road from land gat no.148/3, it is for plaintiff to prove his case or stand on his own footing. He cannot seek appointment of Court Commissioner to bring factual aspects on record. Such an attempt is rightly declined by Trial Court as it would amount to collection of evidence. No jurisdictional error is found in impugned order. Hence, writ petition stands rejected.

(S.G. CHAPALGAONKAR, J.)