

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11157 OF 2025

Vidya Nagnath Bhosale And Others

....Petitioners

VERSUS

Vaijinath Vasant Bhosale

.....Respondent

Mr. Rishikesh Mohite, Advocate for Petitioners

Mr. T.S. Jadhavar, Advocate for Respondent

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 14th JANUARY, 2026

ORDER :

1. By this petition, petitioners challenge the order passed by learned 4th Joint Civil Judge, Junior Division, Barshi below Exhibit-45 in Regular Civil Suit No. 383 of 2025, thereby allowing the application filed by the respondent/defendant under Order 26, Rule 9 of the Civil Procedure Code, for appointment of Court Commissioner.

2. Admittedly, in the present case, application for appointment of Court Commissioner is filed before commencement of recording of evidence.

3. In *Mahadeo Kondiba Shinde Vs. Nitin Sakharam Shinde* (2022) 2 ALL MR 593 (Bom), learned Single Judge of this Court has

held that appointment of Court Commissioner prior to the commencement of evidence of suit is premature and hence, set aside the said appointment. Similar view is taken by the learned Single Judge of this Court in ***Shantaram Dattatray Kekan and Others Vs. Bhausahab Karbhari Kekan and Another*** (Writ Petition No. 14046 of 2021).

4. In view of above, this Court has consistently taken a view that application for appointment of Court Commissioner has to be filed after commencement of recording of evidence.

5. In the result, writ petition is allowed.

6. Impugned order dated 14.08.2025 passed by the learned 4th Joint Civil Judge, Junior Division, Barshi below Exhibit-45 in Regular Civil Suit No. 383 of 2025 is hereby quashed and set aside.

7. Parties at liberty to file application seeking appointment of Court Commissioner after commencement of recording of evidence. If such application is filed, Trial Court to consider the same on its own merits, without being influenced by the order impugned in the present writ petition.

(NITIN B. SURYAWANSHI, J.)