

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

WRIT PETITION NO. 12519 OF 2025

Krushna Valley Chamber Of Industries And Commerce
VERSUS
General Manager Telecom And Anr.

...
Mr. Milind Deshmukh a/w Mr. Umakant Waghmare, for Petitioner.
...

CORAM : SACHIN S. DESHMUKH, J.
DATE : 2nd APRIL, 2026

P. C. :

1. The Petitioner has raised challenge to the order dated 26.06.2025 passed by the learned Civil Judge Senior Division, Sangli, rejecting the application below Exhibit-61 seeking appointment of a Court Commissioner.
2. The petitioner is the original plaintiff while the respondents are the original defendants. The parties hereafter shall be referred to as their original status in the suit.
3. The plaintiff presented regular Civil Suit No.105/2022 against the defendants seeking declaration and perpetual injunction in relation to the suit property before the Civil Judge Senior Division, Sangli.

4. In the interregnum, the plaintiff preferred the application below Exhibit – 61 seeking appointment of the Court commissioner to measure the portion occupied towards installation of tower over the terrace. However, the same suffered rejection. Aggrieved by the same the Petitioner is before this Court.

5. Learned counsel for the petitioner/Plaintiff submits that the order under challenge is bad in law. The appointment of Court Commissioner is rather warranted for the proper adjudication of the suit. The trial Court has failed to appreciate the relevant provisions. As such, prayed to allow the Petition.

6. Having heard the submissions and upon perusal of the record indicates that the application seeking appointment of the Court Commissioner is presented at a belated stage. The trial Court in the order under challenge has categorically noted that the matter is part heard.

7. Perusal of the record further indicates that the issue in relation to which the plaintiff seeks the appointment of Court Commissioner is actually the claim put forth by the plaintiff. As such, the burden of proof to establish the said aspect is on to the plaintiff. Moreover, the appointment of Court Commissioner may amount to collection

of evidence at the instance of Court, which is neither justified nor warranted.

8. All these aspects are properly considered and appreciated by the trial Court. Moreover, the trial has progressed substantially and posted for final arguments.

9. In view of the aforesaid discussion, the petition sans merit accordingly, same stands dismissed.

10. There shall be no order as to costs.

11. Considering the state of suit, the trial Court is requested to make an endeavour to conclude the trial at the earliest.

[SACHIN S. DESHMUKH, J.]