

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

WRIT PETITION NO. 13212 OF 2025

SUKUMAR DADA MOGLADE AND OTHERS
VERSUS
THE GRAMPANCHAYAT NANDANI AND OTHERS

...
Mr. Viraj V. Nalawade a/w Ms. Tanvi Lad, Mr. Girish Mujumdar a/w
Mr. Sharvari Tipugade, Advocate for Petitioners
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 19TH JANUARY, 2026

PER COURT :

1. By this petition filed under Article 227 of the Constitution of India, petitioners challenge the order dated 14/10/2025, passed by learned Joint Civil Judge, Junior Division, Jaysingpur below Exhibit-26 in R.C.S. No.219/2018, thereby rejecting the application filed by petitioners for appointment of Court Commissioner.

2. Admittedly, said application is filed at a premature stage, even before framing of issues and parties leading their evidence.

3. In *Mahadeo Kondiba Shinde Vs. Nitin Sakharam Shinde*, (2022 (2) ALL MR 593) learned Single Judge of this Court at Aurangabad Bench 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 at Aurangabad Bench in *Shantaram Dattatray Kekan and Others Vs. Bhausaheb Karbhari Kekan and Another* [Writ Petition No.14046/2021].

4. In the light of aforesaid observation, it is clear that this Court has consistently taken a view that application for appointment of Court Commissioner, filed before recording of evidence, is premature. Since the trial Court has rejected the application, the impugned order is in consonance with the settled legal position. Hence, no interference is called for in the impugned order.

5. Writ petition being devoid of merit is dismissed, by granting liberty to the petitioners to move application under Order 26 Rule 9 of the Code of Civil Procedure after commencement of recording of evidence. If such application is filed at that stage, trial Court shall consider it on its own merits without being influenced by the order impugned in the present petition.

(NITIN B. SURYAWANSHI, J.)