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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2489 OF 2016**

Shri Ganpat Yashwant Mokashi ... Petitioner

vs.

Sou. Sneha Vishal Chawan and Anr ... Respondents

**WITH
INTERIM APPLICATION NO. 38557 OF 2025
IN
WRIT PETITION NO. 2489 OF 2016**

Shraddha Shahadu Mokashi and Ors Applicants

IN THE MATTER BETWEEN

Shri Ganpat Yashwant Mokashi ... Petitioner

vs.

Sou. Sneha Vishal Chawan and Anr ... Respondents

**WITH
WRIT PETITION NO. 2490 OF 2016**

Shri Chandrakant Yashwant Mokashi ... Petitioners
and Anr

vs.

Sou. Sneha Vishal Chawan and Anr ... Respondents

Mr. Anusha Amin for the Petitioner

Mr. Tanvir Shaikh for the Applicant/Intervenor in IA No. 38557/2025.

CORAM : GAURI GODSE, J.

DATED : 22nd APRIL 2026

ORDER:

WRIT PETITION NO. 2489 OF 2016

1. This petition is filed by the original defendants to challenge the order passed by the trial court appointing the Court Commissioner under Order XXVI, Rule 9 of the Civil Procedure Code, 1908 ('CPC'). 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 petitioner. The Court Commissioner's report is never conclusive and the petitioner can always file objections to the report, which the trial court is bound to consider. The petitioner 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 petitioner.

4. Subject to the aforesaid observations, the petition is dismissed while keeping rights and contentions of the parties in the suit open.

5. In view of dismissal of the writ petition, pending Interim Applications and Civil Applications are disposed of as infructuous.

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6. This petition is filed by the original defendant to challenge the order dated 29th January 2016, passed below Exhibit- 27 and Order dated 29th January 2016, passed below Exhibit-13. By the order below Exhibit-27, the application filed by defendant nos. 1 and 2 for seeking time to file say to the application for appointment of Court Commissioner is rejected. The second impugned order dated 29th January 2016, passed below Exhibit-13, is also challenged by a separate Writ Petition No. 2489 of 2016.

7. Hence, in view of the order passed in Writ Petition No. 2489 of 2016, this petition is also dismissed.

(GAURI GODSE, J.)