



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition No.6644/2025

Manik v Ashok

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. A.M. Chandekar, Advocate for petitioner.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 13-01-2026.

Heard learned Counsel for the petitioner.

2. Petitioner's challenge is to order dated 11-04-2025 passed by the Executing Court, rejecting the application for appointment of Court Commissioner.

3. Learned Counsel for the petitioner submits that the appointment of Court Commissioner was necessary for identification of the property as there were two properties in question with respect to which the proceedings were initiated and a dispute arose in view of the boundaries mentioned in the plaint. He submitted that in view of the position of law the executing Court was entitled to appoint the Court Commissioner even at the stage of execution of decree for the purpose of identification of the properties.

4. The controversy arises in the case of execution of a decree passed in R.C.S. No.200/2000, which has attained finality till Second Appeal decided by the Court. Perusal of the impugned order shows that the Court has categorically observed that the decree holder was earlier placed in possession of the suit property through the process of Court by the bailiff and in the possession receipt the description of the property is

very specifically mentioned as plot no.80. The Court has observed that there is no dispute about the identity of the property as suit property is plot no.80 about which the execution proceedings are initiated. Further it has to be noted that although there existed no dispute about identity of the properties, the application for appointment of Court Commissioner was filed at the stage of execution of the decree. The executing Court has given due consideration to the relevant aspects and has found that there is no dispute about identity of the properties.

5. I do not find any perversity with the impugned order. Writ petition is accordingly dismissed. No order as to costs.

(Prafulla S. Khubalkar, J.)