

ORDER BELOW EXH.31 IN

Spl.C.S.No.52 of 2015

(CNR No.MHSO06-0003302015)

1] This is an application for appointment of Court commissioner on behalf of the defendant.

2] It is submitted by the application that the plaintiff filed T.I. application vide Exh.27. In order to decide T.I. application, the circumstances on the spot as to boundaries, borewell, pipeline, house sugarcane crop etc. should be brought on the record by appointment of Court commissioner. Hence, Court commissioner be appointed for the same.

3] The application is challenged as false and not maintainable. It is for collection of evidence. Hence, it is liable to be rejected.

4] Heard learned advocates for parties. The learned advocate for defendant was allowed to argue on today.

5] On face of it, the application is for collection of evidence. It is settled law that commission cannot be appointed for collection of evidence. To ascertain the facts on the spot like borewell, house, pipeline, sugarcane crop is nothing but, the collection of evidence about the facts on the spot. The documentary, or oral evidence can be adduced by the parties regarding the same. It is settled law that commission cannot be appointed for collection of evidence. In this regard law is laid down in **Nalubai Narayan Shinde vs Gopinath Dagdu Shinde (2011 2 MhLJ 991)**

“6... I have considered rival contentions of the parties and in my view, the impugned order cannot be sustained in view of decision of this Court in the cases Sanjay Namdeo Khandare (supra) relied upon

by the learned counsel for the petitioner. It is well settled law that Commissioner cannot be appointed to find out who is in possession of the suit field/suit premises...”

6] Therefore, the application is liable to be rejected. Hence, following order is passed.

ORDER

The application is rejected.

Place- Pandharpur
Date:-13.09.2022

Civil Judge Senior Division,
Pandharpur

CERTIFICATE

I affirm that, the contents of the this P.D.F file Order/Judgment are same word to word, as per the original order/ judgment

Name of Stenographer : B.R.Kondekar
Court Name : Civil Court Senior Division, Pandharpur
Date 13-09-2022

Order/Judgment signed
by the Presiding Officer on : 13-09-2022

Order uploaded on : 13-09-2022