

**ORDER BELOW EXH 44 IN R.C.S.NO. 55/2019**

**(CNR NO. MHSO07000-065-2019 )**

**I.A.No.04/2020**

**01]** This is an application filed by plaintiff for appointment of Court Commissioner to send the sugarcane crop standing in the suit property to sugarcane factory. The plaintiff has submitted that crushing season of the sugar factories is about to close in March 2020. That if the sugarcane crop standing in the suit property is not sent to the sugarcane factory plaintiff will suffer a huge loss. That the sugarcane crop which is standing in the suit property is perishable one which needs to be sent immediately for its crushing to the sugarcane factory through Court Commissioner to avoid loss of the said standing sugarcane crop in the suit property. Therefore, the instant application needs to be allowed.

**02]** In reply scribed over the instant application by learned advocate for the defendants he has strongly opposed it and denied all the contents thereof. It is submitted therein that if the Court Commissioner is appointed for sending the sugarcane crop standing in the suit property in any sugar factory it would amount to abuse of process of Court. Therefore, the instant application is liable to be rejected.

**03]** Perused the instant application at Exh.44 and reply scribed thereon. Heard learned advocates for both the sides.

**04]** It appears from record that the instant suit is for grant of permanent injunction against the defendants. It further appears from record that even earlier also as per order dated 26.02.2019 passed on Exh.30 advocate Shri.Shivraj V. Patil was appointed as Court Commissioner to send the sugarcane crop standing in the suit property to the sugarcane factory. The sugarcane crop is no doubt a perishable crop. The decision of suit may take its own time. Till the decision of suit the said sugarcane crop standing in the suit

property cannot be kept thereon as it may be perished. Therefore, to avoid loss of sugarcane crop standing over the suit property the same needs to be sent to the sugarcane factory through Court Commissioner without causing any prejudice to both the parties to the suit. It is, therefore, clear that the instant application needs to be disposed of as per final order. As such, final order is passed as follows:-

**ORDER**

1. Advocate Shri. Shivraj V. Patil is hereby appointed as Court Commissioner.
2. The Court Commissioner is directed to send the sugarcane crop standing over the suit property to the sugarcane factory in his name where the suit property is recorded and to file his report accordingly on record on or before next date.
3. The Court Commissioner is at liberty to seek help from the competent revenue officer for sending the standing sugarcane crop over the suit property to the sugarcane factory.
4. The plaintiff is directed to deposit commission charges of Rs.3000/- in the Court forthwith.
5. The commission writ be issued accordingly after depositing of commissioner charges by the plaintiff.
6. The instant application is disposed of accordingly.
7. Cost in cause.

**( P. P. Deshmukh)**

Date- 27.02.2020.

Jt. Civil Judge Junior Division, Pandharpur.

**CERTIFICATE**

*I affirm that, the contents of this PDF file order are same word to word, as per the original order.*

*Name of Stenographer : A.K. Vibhute*

*Court : Jt. Civil Judge Junior Division  
Pandharpur*

*Date : 27.02.2020*

*Order signed by the  
Presiding Officer on : 27.02.2020*

*Order uploaded on : 29.02.2020*