

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

24 WRIT PETITION NO.12477 OF 2019

MS BALRAM BUILDER AND DEVELOPERS SHIVAJI
CHOWK JINTUR THROUGH PARTNERS S S SONI AND
OTHERS
VERSUS
JAISHRI RAMESH POKALWAR AND OTHERS

...
Advocate for Petitioners : Mr. M. M. Patil (Beedkar)

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 14th OCTOBER, 2019.

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PER COURT :

1. The petitioners / original defendants are aggrieved by the order dated 01.08.2019 passed by the trial Court, by which application Exhibit-22 filed by the plaintiffs for seeking appointment of a Court Commissioner in RCS No. 37 of 2017, has been allowed.

2. It is informed that the recording of oral evidence is yet to commence in the suit.

3. This Court has consistently held that a Court Commissioner can be appointed after the recording of oral evidence has concluded. Some of the orders passed by this Court are as under :

(1) *Syed Mushtaque Ahmad Syed Ismail and others Vs. Syed Ashique Ali Khan Hatdar* [2011 (6) Mh.L.J. 334 = 212 (2) Bom. C.R. 790],

(2) *Nalubai Shinde and others Vs. Gopinath Shinde* [2011(2) Mh.L.J.991],

(3) *Dnyandeo Vithal Salke and others vs. Dagdu Kadar Inamdar*, 2017 (3) Mh.L.J. 314.

(4) *Chandrakant Kashinath Dike and others vs. Smt.Satyabhama Vishwanath Dike and another*, Writ Petition No.8877/2013 (Aurangabad Bench) decided on 17.01.2014.

(5) *Dhondiba Bapu Zaware vs. Santosh Paraji Zaware and others*, Writ Petition No.4756/2014 (Aurangabad Bench) decided on 08.12.2014.

(6) *Dipak Laxman Gadekar and anr. Vs. Trimbak Ravji Shirsath*, Writ Petition No. 11593/2015 (Aurangabad Bench), decided on 23/08/2017,

(7) *Mahadeo s/o Vaijanath Bembalge Vs. Chandrakala w/o Ramesh Athane*, Writ Petition No. 832/2018 (Aurangabad Bench), decided on 04/06/2018,

(8) *Dhondiram Nivrutti Pawar through L.Rs. Vs. Laxman Khashaba Pawar and others*, Writ Petition No. 1196/2017, (Bombay Bench), decided on 23/01/2018,

(9) *Sanjay Balasaheb Khandare Vs. Vivek Surinder Mahajan and another*, Writ Petition No. 4958/2018,

(Aurangabad Bench), decided on 29/01/2018.

(10) Bhika Mahadu Katkar and another Vs. Arjun Bhimraj Ghode, WP No.1890/2019 (Aurangabad Bench) decided on 09/07/2019.

(11) Sitaram Suklal Patil and another Vs. Vasudeo Suklal Patil, WP No.9626/2016 (Aurangabad Bench), decided on 31/07/2017.

4. Issue notice to the respondents, returnable on 03.12.2019. Until then, the impugned order dated 01.08.2019 shall stand stayed.

5. Copies of the petition paper book shall be supplied for issuing notices, on or before 22nd October, 2019, failing which this petition shall stand dismissed without reference to the Court on 23rd October, 2019.

(RAVINDRA V. GHUGE, J.)

vsm/-