

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 13194/2021

Jabbar Singh S/o Shri Malam Singh, Aged About 75 Years, By
Caste Rajput, R/o Village Kankani, Tehsil Luni, District Jodhpur.

-----Petitioner

Versus

1. Jodhpur Development Authority, Jodhpur, Through
Secretary, Jodhpur Development Authority, Jodhpur.
2. Tehsildar (South), Jodhpur Development Authority,
Jodhpur.

-----Respondents

For Petitioner(s) : Mr. Moti Singh

For Respondent(s) : -

JUSTICE DINESH MEHTA

Order

27/10/2021

1. Mr. Moti Singh, learned counsel for the petitioner challenging the order dated 04.09.2021, whereby, the Trial Court has rejected petitioner's application under Order 26 Rule 4A of the Civil Procedure Code, 1908 for recording statement of petitioner by way of appointing Commissioner, submits that petitioner, 74 years of age is suffering from serous ailments and is finding it difficult to appear in the witness box.
2. Issue notice. Issue notice of stay application also, returnable on 13.12.2021.
3. Having regard to the facts and circumstances of the case, the petitioner is directed to pay a cost of Rs.5,000/- to the defendants/ counsel of defendants on the next date of hearing i.e. on 24.11.2021.

4. On the said date, the Trial Court shall pass order appointing Commissioner to complete petitioner's evidence by way of examination/cross-examination.

5. In case the defendants wish to oppose the appointment of Commissioner, they may refuse or accept the cost and file an application before the Trial Court indicating that they want to contest the present petition seeking appointment of the Commissioner.

6. In such event, proceedings before the Trial Court shall remain stayed.

7. Needless to observe that any amount/fee to be paid to the Commissioner, as determined by the Trial Court, shall be required to be paid by the petitioner, apart from the above cost of Rs.5,000/-.

(DINESH MEHTA),J

284-pooja/-



सत्यमेव जयते