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

WRIT PETITION NO.1108 OF 2015

Bhila Uttam Desale and others.

..Petitioners

-Versus-

Nimba Vedu Thakare and another.

..Respondents

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Mr.S.S.Chapalgaonkar, Advocate for the Petitioners.

Mr.N.S. Choudhari, for the Respondent No.1.

Mr.U.H.Bhogle, AGP, for the Respondent No.2.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 11th February, 2015

Per Court:

1 I have heard Mr.Chapalgaonkar, learned counsel appearing for the Petitioners and Mr.Choudhari, learned counsel appearing, on caveat, on behalf of the contesting Respondent No.1. The Respondent No.2 is a formal party.

2 Having considered the submissions of the litigating sides, the whole issue turns upon the direction given by the Joint Charity Commissioner, thereby de-registering the Trust by the name “Shri Swami Samarth Adhyatmik Vikas Va Balsanskar Kendra” at Deopur, Vidyanagar, Dhule bearing Registration No.A-652/Dhule and removing it's name from

Schedule-I under the Maharashtra Public Trusts Act.

3 The contention of the learned counsel appearing for the Petitioners is that the impugned judgment dated 05.11.2014 passed by the Joint Charity Commissioner, Nashik in Revision Application No.17/2012 was under challenge in Civil Miscellaneous Application No.224/2014. The contention is that when an Appeal/ main Application, which is to be decided in a summary manner is pending, the application Exhibit-5 seeking an interim stay to the impugned judgment should have been allowed so as to enable a proper hearing on the Appeal. By rejection of Exhibit-5 by the impugned order dated 31.12.2014, the Appeal is practically rendered infructuous for the reason that the Trust would be de-registered and removed from Schedule-I. Eventually, after passage of time, if the Appeal was to be allowed and the impugned order was to be set aside, the re-registration of the Trust will have to be ordered. This is likely to create complications. Balance of convenience, therefore, requires that the impugned judgment should have been stayed and the Appellate Court could have heard the Appeal expeditiously.

4 Mr.Choudhari, learned Advocate appearing for the Respondent No.1, points out from his affidavit-in-reply that a fraud played by the Petitioners for getting the said Trust registered, was explicitly

brought before the Joint Charity Commissioner through the Respondent No.1. The Written Statement filed before the Appeal Court in CMA No.224/2014 particularly paragraph 6 also clearly exposes the Petitioners. Moreover, if the said Trust has been registered by playing a fraud on the authorities, the Petitioners eventually could be held guilty of fraudulent acts. He, therefore, submits that the impugned order has rightly been passed and the Appeal Court, prima facie, came to a conclusion that the Petitioners do not deserve any interim relief.

5 Mr.Choudhari further submits that in the event the Appeal is allowed, the registration can be restored and no loss or harm of any nature would be caused to the Petitioner.

6 Considering the submissions of the rival sides, with due circumspection, I am of the view that CMA No.224/2014 being a summary proceeding, needs to be heard expeditiously. I do not find that an irreparable loss, serious prejudice or manifest inconvenience would be caused to the Respondent No.1 if status-quo is ordered to be maintained as regards the registration of the said Trust for a short period during which the Appeal Court could decide CMA No.224/2014.

7 In such circumstances, I am inclined to direct the parties to

maintain status-quo as regards the registration of the said Trust with a further direction to the learned Adhoc District Judge-2, Dhule to decide CMA No.224/2014 within a specific time frame.

8 In the light of the above, the Writ Petition is partly allowed. The impugned order dated 31.12.2014 is modified to the extent that the status-quo as regards the registration of the Petitioners' Trust shall be maintained till the disposal of CMA No.224/2014. The learned Adhoc District Judge-2, Dhule shall decide CMA No.224/2014 as expeditiously as possible and preferably on or before 12th June, 2015 taking into account the intervening vacations. The Petitioners shall cooperate with the learned Appeal Court for such expeditious disposal and shall not seek an adjournment on an unreasonable or frivolous ground. In the event such adjournments are sought, the Appeal Court would be at liberty to reject them and also impose costs as it may deem fit and proper.

9 No order as to costs.

(RAVINDRA V. GHUGE, J.)