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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2326 OF 2015

Khushal s/o Sitaram Jadhav
Age-43 years, Occ - Service as
Secretay and Reporting Trustee of the Trust
Vasant Vidyalaya,
Guntur Tanda, Taluka - Kandhar,
District - Nanded

PETITIONER

VERSUS

1. The Assistant Charity Commissioner
Nanded Region, Nanded

RESPONDENTS

2. Vishwanath s/o Sitaram Jadhav,
Age-45 years, Occ - Agriculture
R/o Guntur Tanda, Taluka-Kandhar
District - Nanded

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Mr. V. D. Gunale, Advocate for the petitioner
Mr. V. G. Shelke, AGP for respondent State
Mr. G. A. Gadhe, Advocate for respondent No.2
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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 1st APRIL, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.

2. In respect of elections of the same trust, for the same term i.e. 2012-2015, two change reports have been filed.

Change report No. 182 of 2012 has been filed claiming elections having been held in February, 2012 whereas Change Report No. 619 of 2012 has been filed claiming elections having been held in April, 2012. The parties are at unison, however, in respect of that both the elections to the managing committee of the same trust were for the term 2012-2015.

3. After hearing learned advocates for the parties, it transpires that Change Report No. 182 of 2012 has been proceeded with and has reached the stage of final hearing whereas Change Report No. 619 of 2012 is at evidentiary stage.

4. According to learned advocate for respondent No.2, since there is no likelihood of getting success in Change Report No. 182 of 2012, mischievously, application has been moved at Exhibit-57 seeking consolidated hearing of the two change reports. He submits that cause of action for both the change reports is different and as such, no indulgence be shown to the petitioners, for the basic intention underlying is to delay decision making in change report No. 182 of 2012. He places reliance on a decision of Delhi High Court in the case of *"Suresh Chand V. Satish Dayal"* in CS (OS) No. 2319 of 2006 decided on 28th January, 2010 wherein by an application u/s 151 of the Code of Civil Procedure,

inherent powers of the court were invoked for consolidated hearing of the probate case with that of the already consolidated two suits, claiming shares in the ancestral property. While the suits had reached the final hearing stage, the probate case ('Test Case' as has been referred to in the order), was just initiated. Taking into account various aspects, *inter alia* that nature of evidence in both the cases would be different and evidence in the Test Case would be minimum, the court did not find it appropriate to consolidate the Test Case with the two suits, which were being tried simultaneously.

5. Be that as it may. Hardly any analogy can be drawn from the decision relied on the present matter. It is not in dispute that both the change reports relate to the same trust and the same term i.e. 2012-2015, which is on the verge of completion. Apprehension of learned advocate for respondent No.2 that the petitioner is deliberately delaying the hearing of Change Report No. 619 of 2012 can be taken care of by directing the learned Assistant Charity Commissioner to take up said proceedings and complete all the stages in the same, to the stage of final hearing, within a period two months from today. Learned advocates on either side fairly agree to cooperate with the Assistant Charity Commissioner for said purpose.

5. In view of aforesaid, I deem it appropriate to direct Assistant Charity Commissioner to take up change report No. 619 of 2012 for expeditious hearing and complete all the stages up to final hearing within two months from today.

6. Parties to cooperate. Upon reaching stage of final hearing, after hearing the parties concerned, decision be rendered in respect of change reports No. 182 of 2012 and 619 of 2012. The process of decision making is expected to be completed within a span of two months, as stated herein above.

7. Writ petition, as such, stands allowed to the extent aforesaid. Rule is made absolute in aforesaid terms.

[SUNIL P. DESHMUKH, J.]