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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3389 OF 2015

Suresingh Hirasingsh Fauji

PETITIONER

VERSUS

Sardar Gurucharansing Uttamsingh & Another

RESPONDENTS

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Mr. A. G. Godhamgaonkar, Advocate for the petitioner

Mr. R. S. Deshmukh, Advocate for respondents No.1 and 2

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 25th MARCH, 2015

ORDER :

1. In view of *Vakalatnama* being filed by Mr. R. S. Deshmukh, learned advocates Mr. Vivek Dhage and Mr. D. A. Karnik seek discharge from appearance on behalf of the respondents. Request of learned advocates Mr. Dhage and Mr. Karnik stands granted.

2. Mr. Godhamgaonkar, learned advocate for the petitioner submits that application at Exhibit-G, page 188 filed by present respondent No.1 for taking entry into Schedule-1 of the concerned trust could not be maintainable before the Assistant Charity Commissioner, however, despite want of jurisdiction, the

application was entertained and decided by the Assistant Charity Commissioner. According to him, the application is referable to section 47 of the Maharashtra Public Trusts Act and not to section 22 of said Act. He, as such, submits that the writ petition is maintainable.

3. Mr. R. S. Deshmukh, learned advocate for the respondents, however, submits that the application for recording change had been moved with reference to the background of litigation and as such, has been given proper treatment and has been accepted. He further submits that in view of section 70 of the Maharashtra Public Trusts Act, order passed by Assistant Charity Commissioner is appealable before the Charity Commissioner.

4. Perusal of the impugned order shows that there is not even a whisper about resistance to the application by the petitioner, on the submissions, as are now being advanced. In any case, the question about jurisdiction of Assistant Charity Commissioner to entertain the application is being raised and the order being from Assistant Charity Commissioner, it is open for the petitioner to raise all these contentions in appeal as submitted by respondents.

5. In view of aforesaid, I am not inclined to entertain the writ petition. It is, as such, rejected. It is open for the petitioner to take appropriate remedies as are available in law.

[SUNIL P. DESHMUKH, J.]

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