

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

WRIT PETITION NO.4830 OF 2014

Kartarsingh s/o Charansinsh Ramgadiya,
Age 38 years, Occu. Agril.,
R/o House No.2-12-506
Banda Ghat Road, Vazirabad, Nanded
Taluka and District Nanded

.. Petitioner
(Orig. Plaintiff)

Versus

1. Gurjeetsingh s/o Charansingh
Ramgadiya, Age 50 years,
Occu. Business & Agriculture,
R/o House No.2-12-506,
Banda Ghat Road, Vazirabad, Nanded
Taluka and District Nanded

2. Smt. Darshan Kaur w/o Charansingh
Ramgadiya, Age 60 years,
Occu. Household & Agriculture,
R/o House No.2-12-506,
Banda Ghat Road, Vazirabad, Nanded
Taluka and District Nanded

.. Respondents
(Orig. Defendants)

Mr A.N. Nagargoje, Advocate for petitioner
Mr Amit Mukhedkar, Advocate for respondent No.1
Mr N.S. Kadam, Advocate for respondent No.2

CORAM : N.W. SAMBRE, J.

DATE : 8th December 2015

PER COURT

Heard.

2. In Special Civil Suit No.40 of 2013, initiated by the present petitioner – plaintiff for partition and separate possession, an application Exhibit 17 styling to under Order XIV, Rule 1 of the Code of Civil Procedure came to be moved, seeking appointment of Court Receiver.

3. The father of the petitioner, respondent No.1-husband of respondent No.2 was a pious person who constructed Gurudwara on a private property on the bank of Godavari river. It is the case of the petitioner that the pilgrims who visit the said place for offering their prayer also offer certain donation, which are collected in Golak for which the respondents - defendants No.1 and 2 are not maintaining any account. According to him, the said amount is used for purchase of the property in the name of their legal representatives. According to petitioner, the amount that is received out of donation collected in Golak, as such is misused and sought appointment of Court Receiver.

4. Learned Counsel for the petitioner would urge that for the amount received from the Golak, account could be maintained and the persons, who are engaged for the purpose of management of said Gurudwara could be paid out of the said amount.

5. The prayer came to be opposed by the defendants on the ground that before filing the suit, the petitioner never shown interest in the pious work of establishing and maintaining Gurudwara. Respondents then submit that if the prayer is granted for appointment of Court Receiver, same amounts to granting final relief in the matter. As such, prayed for rejection of the petition.

6. Learned trial Court rejected the application by order dated 12th February 2014. Learned trial Court noticed that the final prayer as is made in Special Civil Suit No.40 of 2013, the suit for partition and separate possession in between petitioner, respondent No.1 - his real brother and respondent No.2 - his mother is pending adjudication in

which as per prayer (C), relief as regards collecting and accounting of donation in the Golak in question is already made.

7. No doubt, it is true that it is not the case of the petitioner that he is maintaining the property in question whereas, the property is maintained by defendants No.1 and 2 and as such, income/donations are received therefrom are spent on management of Gurudwara in question.

8. In my opinion, while rejecting the application for appointment of Court Receiver filed under Order XIV, Rule 1 of Code of Civil Procedure, the learned trial Court was alive to the above referred facts and as such, has rightly rejected the same. So far as the allegation of danger or vesting of property in question at the behest of petitioner is concerned, in my opinion, no case to that effect is made out so as to satisfy the requirement of Order XIV, Rule of the Code and as such, the trial Court was right in rejecting the application Exhibit 17 for appointment of Court Receiver.

9. No case for interference is made out. As such, petition fails, stands dismissed.

10. The observations made herein are prima facie and the trial Court should not get influenced while deciding the suit finally.

(N.W. SAMBRE, J.)