

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

WRIT PETITION NO. 5358 OF 2015

Kashinath Baburao Bhutkar,
Age: 75 years, Occ. Pensioner,
R/o Dongargan, Tq. Nagar,
District Ahmednagar

...PETITIONER

versus

1. Dr. Rangnath Ganpatrao Mate,
Age: 70 years, Occ. Medical Practitioner,
R/o Sonai, Tq. Newasa,
District Ahmednagar.
2. Sau. Kamaltai Rangnath Mate,
Age: 56 years, Occ. Household,
R/o Sonai, Tq. Newasa,
District Ahmednagar.
3. Ashokrao Gorakshnath Mate,
Age: 58 years, Occu. Agriculture,
4. Pundlik Gangadhar Jangale,
Age: 70 years, Occu. Nil.
5. Sau. Vaishali Adinath Mate,
Age: 35 years, Occ. Household,
6. Bhaurao Dagdu Jare,
Age: 65 years, Occ. Pensioner,

R. Nos. 3 to 6 all R/o Dongargan,
Tq. Nagar, District Ahmednagar

7. The Joint Charity Commissioner,
Pune Region, Dhole Patil Road,
Pune.

...RESPONDENTS

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Mr. V.D. Hon, Senior Counsel, instructed by
Mr. Ashwin V. Hon, Advocate for Petitioner
Mr. L.V. Sangeet, Advocate for respondents No. 1 and 2
Mr. S.G. Sangle, A.G.P. For respondent No. 7

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 10th JUNE, 2015

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard the learned counsel for the parties finally with consent.

2. This petition has been moved against order dated 2nd March, 2015, on application Exhibit-5 in Trust Application No. 2 of 2015 filed under section 72 of the Maharashtra Public Trusts Act, 1950, passed by District Judge -2, Ahmednagar, whereunder request of petitioner for interim relief has been rejected. The matter concerns change report bearing No. 1136 of 2011 filed by respondents.

3. After hearing the parties, position emerges that two change reports by rival groups have been filed, which are the subject-matter of litigation. It appears that change report bearing No. 1024 of 2011 filed by present petitioner has been rejected by the assistant charity commissioner under order dated 19-04-2014. Against order of rejection of change report No. 1024 of 2011, appeal bearing No. 5 of 2014 had been filed by present petitioner before the joint charity commissioner. Under order dated 29-12-2014 joint charity Commissioner dismissed the appeal.

4. It also appears that an appeal bearing No. 8 of 2014 has been filed by present petitioner, challenging acceptance of change report bearing No. 1136 of 2011 filed by the respondents before the appellate authority. Joint charity commissioner under order dated 29-12-2014 dismissed the appeal and maintained the order of acceptance of change report No. 1136 of 2011 passed by assistant charity commissioner.

5. After dismissal of appeal No. 8 of 2014, application Exhibit-5 in Trust Application No. 2 of 2015 under section 72 of the Maharashtra Public Trusts Act at the instance of present petitioner had been filed. While deciding application Exhibit-5, in respect of change report bearing No. 1136 of 2011 under order dated 02-03-2015, learned District Judge has taken into account all aforesaid facts and has *prima facie* considered that admissions given by the present petitioner in cross-examination clearly indicate that he had manipulated record of the trust. It is *prima facie* opined that the meeting conducted by the petitioner is not legal and further that since change report of other party has been already accepted, the application does not deserve any consideration and as such, learned District Judge rejected the same by impugned order dated 02-03-2015.

6. Perusal of impugned order shows that discretionary order has been passed by the learned Judge, and the same cannot be

said to be illegal or improper at this stage. In such a case, I am not inclined to interfere with the order impugned in the present petition.

7. As such, writ petition is dismissed. Rule stands discharged.

8. However, looking at the controversy involved, it would be expedient to decide the proceedings before District Judge - 2 Ahmednagar in respect of change report bearing No. 1024 of 2011 as well as change report No. 1136 of 2011 and Trust Applications (Miscellaneous appeals) No. 2 of 2015 and 5 of 2015 as expeditiously as possible.

9. Accordingly, District Judge- 2 Ahmednagar is directed to decide the proceedings in respect of change report bearing No. 1024 of 2011 as well as change report No. 1136 of 2011 and Trust Applications (Miscellaneous appeals) No. 2 of 2015 and 5 of 2015, as expeditiously as possible, preferably within a period of four months from the date of receipt of writ of this order.

10. Needless to refer to that observations in this order shall not influence the decision being given on merits by the District court.

Sd/-

(SUNIL P. DESHMUKH, J.)