

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

**Civil Application No. 1122 of 2012
In
Second Appeal No.95 of 2001**

Abdul Karim Akbar Deshmukh
And Others.

.. Applicants.

Versus

Karimbee Gulab & Others.

.. Respondents.

Shri. V.P. Latange, Advocate, for applicants.

Shri. A.B. Kale, Advocate, for respondent Nos.2 and 3.

CORAM: T.V. NALAWADE, J.

DATE : 21 AUGUST 2015

ORDER:

1) The application is filed for setting aside order of disposal as withdrawn made by this Court in Civil Application No.1618 of 2011 and Second Appeal No.95 of 2001. Heard learned counsel for present respondent Nos.2 and 3.

2) As per record matter is abated as against respondent Nos.4,5 and 6. Though served respondent Nos.1,7 and 8 have not turned up.

3) The order made on 4-12-2009 shows that submission was made before the Court by learned counsel Shri. B.S. Shinde who was holding for Advocate Shri. V.P. Latange that his client had no interest in prosecuting the matter. It was submitted that on telephone it was informed to the counsel by the applicants that there was compromise on the issue that is why the applicant did not want to prosecute matter. In view of the submission both the proceedings were disposed of.

4) The record shows that there is dispute with regard to management of the trust and framing of scheme of the trust. There is grievance that the respondents are not properly managing the property and the management is not in the interest of the trust. It appears that proceeding which was filed before the District Court to challenge the order made by the Assistant Charity Commissioner was also disposed of by making statement that the scheme was finalized by the Assistant Charity Commissioner. There is grievance of present applicants that by joining hands, in collusion, the order dated 29-6-2000 was obtained in District Court. In view of these

circumstances this Court holds that the application needs to be allowed.

5) The application is allowed. The order made by this Court on Civil Application No.1618/2001 and also Second Appeal No.95 of 2001 is set aside and both the matters are restored to the original numbers. List the civil application and the second appeal for final disposal on 23-9-2015.

Sd/-
(T.V. NALAWADE, J.)

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