

IN THE HIGH COURT OF JUDICATURE OF BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO.6160 OF 2015**

Laxman Babanrao Mali,
Age 52 years, Occu:Agril.,
r/o. Opp. Police Lane, Talode,
Tq. Talode, Dist. Nandurbar.

...PETITIONER

VERSUS

1. Prabhakar Sambhu Chaudhari,
Age 65 years, Occu: Business,
r/o. Near Kalpana Twakis, Taloda,
Tq. Taloda, Dist. Nandurbar.
- (2. Bachusing Kanhiyalal Pardeshi,
Age 64 years, Occu: Agriculturist,
R/o. At/post.Talode, Tq. Talode,
Dist.Nandurbar.)

(Respondent no.2 deleted as per Court's
order dated 29.6.2015)

...RESPONDENTS

...
Mr.Shailesh P.Brahme, Advocate for the
petitioner.
Mr.P.S.Shendurnikar, Advocate, for respondent
no.1.

...

CORAM: R.M.BORDE

AND

P.R.BORA, JJ.

DATE : June 29th, 2015.

ORAL JUDGMENT: (Per R.M.Borde, J.)

1. Counsel for the petitioner seeks leave to delete name of respondent No.2. Leave granted. Name of respondent no.2 stands deleted.

2. Heard. Rule. Rule made returnable and heard forthwith with the consent of learned Counsel for the parties.

3. The petitioner claims that he is person interested in the affairs of the trust, namely, Peoples Education Society, Taloda, and is entitled to participate in the proceedings initiated by respondent no.1 under Section 41-A of the Maharashtra Public Trusts Act, seeking certain directions. The application tendered by the petitioner has been rejected on the ground that the issue in respect of his membership is not finally decided and that one forum i.e. the Joint Charity Commissioner has held against him. The application tendered by the petitioner seeking stay to the operation of the order passed by the Joint Charity Commissioner, negating his claim of membership of the trust, has been rejected on 16.7.2014, and the challenge raised to the said order has also been turned down by the High Court while dealing with Writ Petition No.6952/2014.

4. The petitioner contends that he is person interested in the affairs of the trust since he is claiming to be its member, and the dispute in respect of validity of his claim of his membership is pending consideration before the District Court, as well as before the High Court, in a Second Appeal. The petitioner also contends that he has presented two Change Reports being C.R.No. 157/2009 and C.R.No.191/2013, which

also is indicative of the fact that he is interested in the affairs of the society.

5. This petition can be disposed of by permitting the petitioner to participate in the proceedings initiated by respondent no.1 before the Assistant Charity Commissioner subject to certain clarifications.

The petitioner can be considered as a person interested in the affairs of the trust, and shall be permitted to participate in the Inquiry proceedings bearing No.268/2014, and it is accordingly ordered.

It is clarified that, by virtue of grant of permission to participate in the proceedings pending before the Assistant Charity Commissioner, it shall not be construed as an expression of opinion by the High Court as regards validity of claim of membership of the petitioner, pending consideration before the District Court as well as the High Court. Hence, the High Court and the District Court shall be free to examine the issue pending before respective courts as regards validity of the claim of the petitioner on its own merits and in accordance with the provisions of law.

Rule is accordingly made absolute with no order as to costs.

It will be open for the parties to make request to the District Court for expeditious disposal of the pending proceedings.

(P.R.BORA)
JUDGE

(R.M.BORDE)
JUDGE

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