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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5827 OF 2014

Uttam Nimba Nikam
Age-61 years, Occ- Retired,
R/o Undirkhed, Taluka-Parola,
District - Jalgaon

PETITIONER

VERSUS

Bhikan Laxman Patil
Age-67 years, Occ- Agriculture,
R/o Undirkhed, Taluka-Parola,
District- Dhule

RESPONDENT

.....
Mr. Parag V Barde, Advocate for the petitioner
Mr. Vinod P. Patil, Advocate, for the respondent
.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 2nd FEBRUARY, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates of the parties.
2. Present petition is directed against rejection of application Exhibit-146 in Inquiry No. 422 of 1997, pending before Assistant Charity Commissioner, Jalgaon Region, Jalgaon, dated 30th March, 2013. Exhibit-146 was filed by the present petitioner to strike out evidence of the reporting trustee namely Bhikan

Laxman Patil in respect of a change report u/s 22 of the Bombay Public Trust Act. The petitioner alleges that evidence of the reporting trustee has not been recorded in proper manner, which would be evident from the record, particularly the *Roznama*.

3. It is the contention of the petitioner that as a matter of fact, examination in chief of the reporting trustee had been conducted on 9th October, 2000 whereas certified copy of the same issued to the objector / petitioner is dated 16th September, 2000. It is the contention of the petitioner that insertion of Exhibit-28A is dubious and suspicious. In view of this he contends that the evidence deserves to be discarded altogether.

4. The other side, however contends that there is no substance in the allegations, since the reporting trustee has been cross examined by the petitioner. No credence be given to the doubt and suspicion being raised by the petitioner, when the same is being raised after a time gap of 11 years, as the examination in chief and cross examination of the reporting trustee was over in the year 2000 whereas objection to its irregularity is being taken in 2012.

5. The application has been rejected by the Assistant Charity Commissioner considering that there may be typographical

mistake, however recording of evidence cannot be said to be unknown to the parties and that the objection is being taken too belatedly.

6. Taking into account aforesaid, I deem it appropriate not to interfere with the impugned order passed at this stage of the proceedings. However, it would be open for the petitioner to take such a ground in further proceedings in case he is aggrieved by decision in the inquiry No. 422 of 1997.

7. Accordingly, writ petition stands dismissed. Rule stands discharged.

[SUNIL P. DESHMUKH, J.]