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

**WRIT PETITION NO.11731 OF 2014**

Minal Uttamrao Hiware and others.                      ..Petitioners

**-Versus-**

Yogesh Somnath Pingale and others.                      ..Respondents

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Mr.M.C.Jain, Advocate for the Petitioners.

Mr.M.S.Kulkarni, Advocate for the Respondent No.1.

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**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 06<sup>th</sup> January, 2015**

Per Court:

- 1                      The submissions of the Petitioners are as follows:-
  - (a)                      There are two inquiry proceedings bearing No.20/2011 filed by Yogesh Somanth Pingale and others and No.01/2013 filed by Lalchand Devchand Pawar and others. Both these proceedings are under Section 41-D of the Maharashtra Public Trusts Act.
  - (b)                      The Petitioners filed the Inquiry Application No.6/2013 under Section 41-D against the Trust and the Trustees. The notices were issued to the Respondents in Inquiry Application No.6/2013.
  - (c)                      The Inquiry Application Nos.20/2011 and 01/2013 were also proceeding in accordance with law.
  - (d)                      On 01.06.2013, the Inquiry Application No.6/2013 was dismissed in default.
  - (e)                      On 10.10.2014, the Petitioners moved the restoration

application along with the condonation of delay application, which was registered as Miscellaneous Application No.12/2014. The same is pending.

- (f) An intervention application below Exhibit-61 is filed by the Petitioners seeking intervention in the Inquiry Application No.20/2011. The Petitioners contended that the Exhibit-61 is also for the same purpose for which the Inquiry Application No.6/2013 was filed under Section 41-D.
- (g) By the impugned order dated 11.12.2014 the Application Exhibit-61 has been rejected.

2            Mr.Jain, learned counsel appearing for the Petitioners, submits that the Petitioners are interested parties and their appearance in Inquiry Application No.20/2011 is necessary. There is collusion between Yogesh Somnath Pingale and others with the Respondents. The Petitioners can establish before the Joint Charity Commissioner the mismanagement of the Trustees. The impugned order has been passed without application of mind and despite the Petitioners being necessary parties, the application Exhibit-61 is rejected primarily on the ground of having been filed at the fag end of the proceedings.

3            Mr.Kulkarni, learned counsel appearing on caveat on behalf of the Respondent No.1, submits that the Inquiry Application No.20/2011 has been finally decided by the concerned Authority by delivering the judgment on 03.01.2015. He further submits that the said application under Section 41-D has been allowed, the Trustees have been removed and a particular individual has been appointed as an Administrator. He, therefore, submits that the purpose for which the Petitioners had moved their application No.6/2013 and Exhibit-61 having been achieved, this Writ Petition is rendered infructuous.

4           Mr.Jain, learned counsel appearing for the Petitioners, despite the submissions of Mr.Kulkarni, insists that this Writ Petition be heard and decided on merits.

5           The issue, therefore, is as regards due diligence. There is no whisper in the application Exhibit-61 as to what were the circumstances that prevented the Petitioners from filing the intervention application immediately upon institution of the Inquiry Application No.20/2011. Similarly, there are no pleadings in the application Exhibit-61 as regards the Petitioners, despite due diligence, could not have filed the intervention application.

6           The Petitioners have contended that the Inquiry Application No.6/2013 was pending and therefore, for the same purpose the intervention application at that point in time was not required.

7           I am unable to accept this submission for the reason that the Inquiry Application No.6/2013 has been dismissed in default on 01.06.2013. The restoration application and the condonation of delay application No.12/2014 have been filed on 10.10.2014. It appears that on the same day the application Exhibit-61 has been filed. The Petitioners have conceded that Exhibit-61 is for the same purpose for which the Inquiry Application No.6/2013 was filed under Section 41-D.

8           In the light of the above, the Petitioners cannot be permitted to resort to two applications for the same purpose. When the delay condonation application No.12/2014 in relation to restoration of the Inquiry Application No.6/2013 was pending, application Exhibit-61 for intervention in the Inquiry Application No.20/2011 could not have been filed. Nevertheless, the proceedings were at a final stage. The final arguments were heard on 20.12.2014 and the Inquiry Application No.20/2011 has been decided by judgment and order dated 03.01.2015.

9           There is no dispute that the Petitioners desired to expose the

mismanagement of the trustees of the Trust, namely, Swargiya Sudam Pingale Memorial Trust, Dhule. Since Yogesh Somnath Pingale and others have succeeded in the Inquiry Application No.20/2011 and since the application for condonation of delay No.12/2014 with regard to restoration of the Inquiry Application No.6/2013 is already on record, I do not find that this Writ Petition deserves to be entertained.

10           As such, for the reasons and circumstances recorded herein above, this Writ Petition is dismissed. No order as to costs.

**(RAVINDRA V. GHUGE, J.)**