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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2017 OF 2015

Yakub Gafoor Shaikh

..Petitioner.

V/s.

The State of Maharashtra and Ors.

..Respondents.

Mr.P.K.Dhakephalkar, Senior Advocate i/b. Mr.Amol P.Mhatre for the petitioner.

Mrs.M.P.Thakur, AGP for respondent Nos.1 to 3.

**CORAM : A.S.OKA AND
V.L.ACHLIYA, JJ.**

DATED : 7TH SEPTEMBER, 2015

P.C. :-

1. Heard the learned senior counsel appearing for the petitioner. On 27th August, 2015 after hearing the learned AGP appearing for the State of Maharashtra, this petition was adjourned till 31st August, 2015 at 4.30 p.m. On that date, the learned AGP received no instructions and, therefore, on request of the learned AGP, the petition is adjourned till today. The only grievance made by the petitioner in this writ petition under 226 of the Constitution of India is as regards the failure of the State Government to implement its own order dated 12th September, 2014.

2. Though this petition appeared on board on various dates from time to time, there is no reply filed. The stand of the learned AGP is that the order dated 12th September, 2015 can be implemented only after a permission of the Charity Commissioner under Section 36 of the Bombay Public Trusts Act, 1950 is obtained.

3. We have perused the order dated 12th September, 2014. The order shows that the Hon'ble Minister who passed the order was made aware of the provisions of Section 36 of the Bombay Public Trusts Act. Even thereafter, no such direction has been issued of obtaining a consent of the Charity Commissioner. In any event, the order which is sought to be implemented does not decide the issue of title. Apart from this, since the Hon'ble Minister has adverted to Section 36, it is not open for the State Government to argue that compliance of Section 36 is necessary.

4. As of today, there is nothing on record to show that the order dated 12th September, 2014 is either stayed or set aside. The said order will have to be implemented by the District Collector, Satara as per clause 3 of the operative part of the order.

5. Hence, we pass the following order:-

i) We direct the petitioner to appear before the District

Collector, Satara on 28th September, 2015 at 11.00 a.m. The petitioner shall produce an authenticated copy of this order as well as the certified copy of the order dated 12th September, 2014 before the District Collector, Satara;

- ii) The District Collector, Satara shall implement the said order dated 12th September, 2014 within a period of one month from 28th September, 2015;
- iii) All concerned to act upon the authenticated copy of this order.

(V.L.ACHLIYA, J.)

(A.S.OKA. J.)

C E R T I F I C A T E

Certified to be true and correct copy of original signed
Judgment / Order.