

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2292 OF 2015

Sukhadeo Krishnaji Sonawane : Petitioner.
Versus
Vijay Panditrao Patil and ors. : Respondents.

Mr. Kalpesh U Patil for the Petitioner.
Mr. C G Gavnekar for the Respondent No.1 and 2.
Mr. S D Rayrikar, AGP, for the Respondent No.4.

CORAM : R. M. SAVANT, J.
DATE : 08th April 2015

P.C.

1 At the outset the learned counsel for the Petitioner seeks deletion of the Respondent No.3. The Respondent No.3 is accordingly deleted at the risk of the Petitioner. Amendment to be carried out forthwith.

2 The writ jurisdiction of this Court is invoked against the order dated 16/2/2015 passed by the learned Joint Charity Commissioner, Nashik Region, Nashik by which the Application Exhibit 58 filed by the Petitioner herein i.e. the original Applicant in the 41(D) proceedings for being cross examined on commission came to be rejected.

3 The Petitioner herein is about 94 years of age and is presently not in a position to travel to Nashik for the hearing of the said Application under Section 41(D) of the Bombay Public Trust Act filed by him. The distance from

the place of his residence to the office of the Joint Charity Commissioner, Nashik is about 90 km. The fact that the Petitioner is not in a physical condition to remain present before the Joint Charity Commissioner is not disputed by the learned counsel appearing on behalf of the Respondent Nos.1 and 2. The learned counsel appearing on behalf of the Respondent Nos.,1 and 2 Shri C G Gavnekar, on instructions, states that he has no objection to the said Application (Exhibit 58) being allowed in the circumstances as mentioned above. In view of the said statement made by the learned counsel for the Respondent Nos.1 and 2 Shri C G Gavnekar, it is not necessary for this Court to enter into the merits or de-merits of the said order. The impugned order dated 16/2/2015 is accordingly set aside and the Application (Exhibit 58) would resultantly stand allowed. The learned counsel for the Respondent Nos.1 and 2 Shri C G Gavnekar makes a further statement that the Respondent Nos.1 and 2 herein would not further cross examine the Petitioner and that the cross examination would stand terminated at the stage at which it was when the Application (Exhibit 58) was filed. Statement accepted. The learned counsel for the Respondent Nos.1 and 2 Shri C G Gavnekar states that in fact an Application was moved on 31/3/2015 to the said effect that the Respondent Nos.1 and 2 would not further cross examine the Petitioner, and though the said Application was taken on record, no orders were passed in deference to the pendency of the above Petition and the stay which is operating therein. In the light of above, the Petition to stand disposed of. The certified copy of the

Application dated 31/3/2015 filed by the Respondent Nos.1 and 2 is taken on record and marked as "X" for identification. The proceeding under Section 41(D) of the Bombay Public Trust Act is pending since the year 2011. The learned Joint Charity Commissioner, Nashik Region, Nashik is therefore directed to hear and decide the same expeditiously and latest by 31/12/2015.

[R.M.SAVANT, J]