IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2509 OF 2015

Mrs. Rekha Sheth : Petitioner.
Versus
Charu Mehta and ors. : Respondents.

Mr. Sharan Jagtiani with Ms. Jesal Shah with Mrs. J N Shah i/by M/s. Daru Shah & Co. for the Petitioner.
Mr. P S Dani, Senior Advocate, with Mr. Dakshesh Vyas and Mr. Rizvi N Ali i/by Thakore Jariwala & Associates for the Respondent No.1.
Ms. Ashwini N Sawant i/by M/s. Dinesh Tiwari & Co. for the Respondent No.2.
Mr. S D Rayrikar AGP for the Respondent No.7.

CORAM : R. M. SAVANT, J.
DATE : 19th March 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 24/2/2015 passed by the learned Joint Charity Commissioner, Greater Mumbai Region, Mumbai by which order the Application (Exhibit 46) for stay of the hearing of the Revision Application No.50 of 2011 until the Change Report No.1466 of 2006 is decided came to be rejected.

2 The said Revision Application No.50 of 2011 arises out of an order dated 20/2/2004 passed by the Assistant Charity Commissioner in Change Report proceedings No.4832 of 2003. The said Change Report concerns one Niket Mehta who was appointed as a permanent trustee during the tenure of

his father Vijay Mehta who also claimed to be a permanent trustee. The said Vijay Mehta is no more. The said Revision Application on the Petitioner's own showing has progressed and is being heard since 17/1/2015.

3 In so far as the Change Report No.1466 of 2006 is concerned, the said Change Report is in respect of appointment of late Vijay Mehta as permanent trustee of which the Petitioner is the reporting trustee and the Respondent No.1 herein has filed his objection to the acceptance of the said Change Report. In view of fact that the appointment of the late Vijay Mehta as a permanent trustee is in question in the said Change Report No.1466 of 2006, and since the Revision Application No.50 of 2011 concerns the appointment of his son Niket Mehta, that the instant Application (Exhibit 46) came to be filed for stay of the hearing of the said Revision Application No.50 of 2011 on the ground that there is an overlap of issues in the two proceedings and adjudication of the said Revision Application No.50 of 2011 would impact the decision that is to be rendered in the Change Report No.1466 of 2006. The said proceedings i.e. the Change Report No.1466 of 2006 has been expedited by the Apex Court and is directed to be disposed of by the end of April 2015 as per the last extension granted by the Apex Court.

4 The Application (Exhibit 46) has been rejected by the learned Joint Charity Commissioner and the said rejection is on the ground that the

subject matter of the above referred Change Report and the Revision Application is different. As indicated above, the Revision Application No.50 of 2011 has arisen out of the order dated 20/02/2004 passed by the Assistant Charity Commissioner in the Change Report No.4832 of 2003. The said Change Report therefore has admittedly undergone an inquiry by the Assistant Charity Commissioner culminating in passing of the order dated 20/2/2004. In so far as the Change Report No.1466 of 2006 is concerned, it is being heard by the first authority i.e. the Assistant Charity Commissioner, whereas the Revision Application No.50 of 2011 is being heard by the learned Joint Charity Commissioner.

5 In my view, therefore, the learned Joint Charity Commissioner was right in rejecting the Application (Exhibit 46) as the scope of the two inquiries are different as one is a Revision and other is an inquiry at the threshold by the Assistant Charity Commissioner. The Petitioner is also a party in the said Revision and can therefore urge appropriate contentions in the said Revision. The learned counsel appearing on behalf of the Petitioner Shri Jagtiani sought to place reliance on the judgment of the Apex Court reported in ***(2001) 3 SCC 459*** in the matter of ***Commissioner of Income Tax, Mumbai v/s. Bhupen Champak Lal Dalal and anr.*** In my view, the said judgment would have no application in the facts of the present case.

6 In that view of the matter, no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed. Needless to state that the contentions of the Petitioner in the said Revision Application have not been dealt with and are kept open for being urged before the Revisionary Authority.

[R.M.SAVANT, J]