

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5085 OF 2014**

Shivanand Gurusnanayya Virakutmath & Ors

..Petitioners

Vs.

Shivlingappa Ayyappa Narone & Anr.

..Respondents

Mr. S.S. Patwardhan for the Petitioners

Mrs. V. S. Nimbalkar AGP for the Respondent No.11

CORAM : R. M. SAVANT, J.

DATE : 5th AUGUST, 2015

P.C.

1 The above Petition takes exception to the order dated 26-2-2014 passed by the Assistant Charity Commissioner, Solapur Division, Solapur. By way of prayer clause (a), the Petitioners have also sought the setting aside of the names of the 17 persons appointed as the first Board of Trustees in the Scheme Application Nos.8 of 2004 and 22 of 2004, as mentioned in paragraphs 17 and 18 of the impugned judgment, the Learned Counsel for the Petitioners states that the Petitioners are not pressing the said prayer as the said relief was not granted by the Assistant Charity Commissioner.

2 A challenge was also raised to the said order dated 26-2-2014 by the society by way of Writ Petition No.4119 of 2014. The said Writ Petition was disposed of by order dated 16-6-2014, whilst disposing of the said Petition it was observed that it was not possible for this Court to go into the factual

aspects namely as to whether the subscriptions were in fact paid or not, or whether in spite of payment of subscriptions the persons are not entitled to membership. The controversy is as regards the membership of 75 persons. After the said observations, this Court has relegated the Petitioners in the said Petition to the remedy by way of Appeal either before the Deputy Charity Commissioner or the Joint Charity Commissioner, as the case may be. In the light of the said order dated 16-6-2014 passed in the said Writ Petition No.4119 of 2014, similar directions would have to be issued in respect of the present Petitioners also, that the Petitioners would be free to adopt remedy by way of an Appeal either before the Deputy Charity Commissioner or the Joint Charity Commissioner as the case may be against the order dated 26-2-2014.

3 With the aforesaid observations, the Writ Petition is disposed of.

4 Needless to state that the contentions of the Petitioners are kept open for being agitated before the appropriate authority, and if the issue of limitation arises, the fact that the Petitioners were prosecuting the above Petition in this Court from 15-4-2014 when the Petition was filed, can be urged by the Petitioners.

[R.M.SAVANT, J]