

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2803 OF 2015

Shri Bhalchandra Mohiniraj Pathak
through its Secretary

.. Applicant

vs.

Shri Rajendra Marutrao Balkawade & Ors.

.. Respondents

IN

REVIEW PETITION (ST.) NO. 13992 OF 2015

IN

WRIT PETITION NO. 8664 OF 2014

Bhartiya Kala Prasarini Sabha

.. Petitioner

vs.

Shri Rajendra Marutrao Balkawade & Ors.

.. Respondents

Mr. Sanjay Kshirsagar for the Applicant.

CORAM : M.S. SONAK, J.

DATE : 14 OCTOBER, 2015.

P.C. :

- 1) The delay in filing this Review Petition is condoned. Civil Application is disposed of.
- 2) The Review Petition is itself taken up for hearing.
- 3) There is absolutely no merit in this Review Petition. In fact, this is nothing but an appeal in disguise.

4) It was urged that there is a contradiction between the order dated 02.02.2015 and the order made by the learned Single Judge of this Court in First Appeal No.1249 of 2012 wherein the provisions of Section 73A of the Bombay Public Trusts Act, 1950 have been considered. In first place, the decision of the learned Single Judge in First Appeal No. 1249 of 2012 was delivered on 10.08.2015 i.e. after the order dated 02.02.2015, of which review is applied for was made. Secondly, upon perusing the decision in First Appeal No. 1249 of 2012, it is clear that there is no conflict whatsoever. In the decision in First Appeal No. 1249 of 2012, it has not been held that only a person who is member of the Society can be held to be "*person having interest as defined under Section 2(10) of the Bombay Public Trusts Act, 1950*" (said Act), in the sense in which the said expression is employed under section 73A of the said Act. The submission that the person having interest must be acting bonafide or that he must have genuine interest in the public trust as against an interest with an ulterior motive or malafide intention, really begs the question. There is no finding recorded by any authority that the persons who are held to be persons having interest in the public trust have acted malafide or that they do not have any genuine interest in the public trust. In fact, by the order dated 02.02.2015, the order made by the Assistant Charity Commissioner, holding that the said persons having interest in a public trust, has been upheld. Accordingly, there is no case made out to exercise review jurisdiction. This

is not a case of any error apparent on a case of record. Review Petition is therefore, dismissed.

5) Although this is a fit case to impose costs, since the costs may have to be paid through the coffers of the Society, no order is made with regard to costs.

6) Review Petition is accordingly dismissed.

(M.S. SONAK, J.)