

2] Learned counsel for the petitioners in the first place submitted that under Section 69 of the said Act, the Charity Commissioner has power to modify the Scheme under Section 50-A(3) of the said Act. By Government Resolution dated 2 January 1986, the powers exercisable by the Charity Commissioner under Section 50-A of the

said Act have been delegated to the Deputy Charity Commissioners and Assistant Charity Commissioners. This Court in case of ***Omprakash Gulabchand Partani & Anr Vs. Charity Commissioner, Maharashtra State, Worli***¹, has held that the Dy. Charity Commissioner had ample jurisdiction to hear trustees and modify scheme under Section 50-A of the said Act. Secondly, learned counsel pointed out under Section 36(iii) of the said Act, the Charity Commissioner has the power, at any stage, to transfer any proceedings pending before a Deputy or Assistant Charity Commissioner to another Deputy or Assistant Charity Commissioner for the purpose of disposal. The temple in question, as also the trustees are located within the jurisdiction of Assistant Charity Commissioner, Satara. In view of all these, there is clear failure to exercise jurisdiction in declining to transfer the proceedings to Assistant Charity Commissioner, Satara.

3] Shri Ronghe, learned counsel for the respondents defended the impugned order by relying upon the clause in the original scheme, which says that in case of any issue with regard to interpretation or modification of any scheme, the jurisdiction shall lie with the Charity Commissioner. Learned counsel further submitted that there is neither any failure to exercise jurisdiction nor any failure to take into consideration relevant provisions of law before making the impugned order. In such circumstances, no interference is warranted with the impugned order.

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4] Having heard learned counsel for the parties and perused the record, in my judgement, no case is made out to interfere with the impugned order. In the first place, the relief of transfer cannot be applied for as a matter of right, unless any issues of bias or issues of like nature exist in the matter. Secondly, even if all the submissions made by learned counsel for the petitioners are to be accepted, the same would at the highest establish that even the Assistant Charity Commissioner, Satara may be one of the authorities empowered to entertain the application for modification of the scheme. That by itself, is not sufficient to entertain a plea for transfer of proceedings.

5] In the present case, admittedly the original scheme was approved by the Joint Charity Commissioner. The clauses in the scheme make reference to vesting of jurisdiction with the Charity Commissioner in case of any interpretation of the scheme. It is not the case of the petitioners that the Joint Charity Commissioner, in any manner, lacks jurisdiction to modify the scheme. The distance between Pune and Satara is also not such as would render attending the proceedings for modification, oppressive or unduly cumbersome. If upon cumulative consideration of all such factors, if the Joint Charity Commissioner has declined to entertain the plea for transfer, there cannot arise any jurisdictional error. This is also not a case of any unreasonable approach on the part of Joint Charity Commissioner. Accordingly, no case is made out for interference with the impugned order. The petition is, accordingly dismissed.

6] Interim orders, if any, shall stand vacated.

7] There shall be no order as to costs.

(M.S. SONAK, J.)