

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**FIRST APPEAL NO. 1292 OF 2013
WITH
CIVIL APPLICATION NO. 3610 OF 2013**

Smt. Pramila Sumansingh Thakur	...	Appellant/Applicant
Vs.		
Sudhakar Baburao Lagad & Ors.	...	Respondents

**WITH
CIVIL APPLICATION NO. 1398 OF 2014
IN
FIRST APPEAL NO. 1292 OF 2013**

Sudhakar Baburao Lagad & Ors.	...	Applicants
Vs.		
Smt. Pramila Sumansingh Thakur	...	Respondent

Mrs. Pramila Sumansingh Thakur, appellant/applicant appearing in person.
Ms. Sujata Atmaram Mhadgut, Advocate for respondent nos. 1 and 2 in FA No. 1292 of 2013.

**CORAM: MRS.MRIDULA BHATKAR, J.
DATE : 2nd December, 2015**

P.C.:

Perused the order dated 21st December, 2006 passed by the Joint Charity Commissioner, so also the order dated 19th July, 2008 passed by the learned Judge of the City Civil Court, Mumbai in Charity Application no. 10 of 2007. The challenge before the City Civil Court was given under section 72 of the Bombay Public Trust Act and against that the Appeal is filed before this Court under section 72(4) of the Mumbai Public Trusts Act and as per the ratio laid down by the Division bench of this Court in the case of

Shivprasad Shankarlal Pardeshi vs. Leelabai Badrinarayan Kalwar,
reported in 1998 (1) Mh. L.J. 444 that the Appeal filed under section 72(4) of the Bombay Public Trusts Act, 1950 is a second Appeal and, therefore, it is necessary to formulate substantial question of law.

2. The only substantial question of law the appellant poses before this Court is:

“Whether Joint Charity Commissioner can review the order passed by the Deputy Charity Commissioner when they are of the equal rank”.

3. The learned counsel for respondent nos. 1 and 2 clarifies that the order of reconstruction dated 23rd April, 2007 passed by Charity Commissioner was not challenged and the reconstruction was allowed and carried out by the Deputy Charity Commissioner and thereafter the change report was numbered as 1886 of 2007 which was allowed within 5 days, i.e., on 28th May, 2007, against which Appeal No. 17 of 2009 was filed before the Charity Commissioner and it was decided by the Joint Charity Commissioner.

4. After going through the orders, it is found that the change report appointing the present appellant as a sole trustee was accepted by the

Assistant Charity Commissioner without conducting any enquiry and it was held as a rubber stamp order. So, the Joint Charity Commissioner and the learned Judge of the City Civil Court have properly appreciated that three months after the posts of trustees had become vacant, the surviving trustee or sole trustee has power to fill in the post of trustee and therefore, the appointment of appellant as one of the trustees is not legal and valid. So also the order passed by the Assistant Charity Commissioner was a blanket order without enquiry. The learned Judge of the City Civil Court has made observation in respect of the genuineness of the change report. In view of this, considering the legal position under the Bombay Public Trusts Act and as the reconstruction was not challenged at all, no substantial question of law is raised by the appellant. Hence, the First Appeal is dismissed.

5. In view of dismissal of First Appeal, nothing survives in the Civil Applications and the same are also accordingly disposed of.

(MRIDULA BHATKAR, J.)