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IN THE HIGH COURT OF JUDICATURE AT MUMBAI

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 513 OF 2013

Pimpri Chinchwad Municipal Corporation ... Applicant

Vs.

Dnyan Prabodhini
A Public Charitable Trust .. Respondent

Mr.S.P.Thorat, Advocate for the Applicant.

Mr.Sandip Pathak i/b Mr.Sugandh B.Deshmukh, Advocate for the Respondent.

CORAM : R. G. KETKAR, J.

DATE : 20th JULY, 2015

P.C. :

. Heard Mr.S.P.Thorat, learned Counsel for the applicant and Mr.Sandip Phatak, learned Counsel for the respondent.

2. The order challenged in this Application is allowing the application for amendment filed by the plaintiff. Leave to convert Civil Revision Application into Writ Petition is granted. Amendment shall be carried out forthwith.

3. By this Petition under Article 227 of the Constitution of India, original defendant has challenged the judgment and order dated 29/08/2012 passed by the learned 6th Additional Judge, Small Causes Court, Pune below Exhibit 25 in Special Civil Suit No. 847 of

2011. By that order, the learned trial Judge allowed the application filed by the respondent, hereinafter referred to as plaintiff under Order 6 Rule 17 of Code of Civil Procedure, 1908 (for short 'C.P.C.') for amending the plaint.

4. The respondent, hereinafter referred to as plaintiff, has instituted Suit for declaration that plaintiff trust being a Public Charitable Trust is exempted from payment of general tax as per Section 132 (1)(b) of the Maharashtra Municipal Corporation Act, (for short 'Act'); for declaration that decision dated 27/01/2010 and bills no.0112101101987, 0112101101985, 0112101101986 and subsequent action of issue of notices prior to attachment served by the defendant education, are illegal and ultra virus to the provisions of the Act; for perpetual injunction restraining the defendant from recovering general tax from the plaintiff trust. During the pendency of the Suit, plaintiff had filed application dated 20/09/2011 under Order 6 Rule 17 of C.P.C. for amending the plaint. The petitioner, hereinafter referred to as defendant filed reply dated 09/07/2012 opposing the application on the ground that as per provisions of the Act, every property tax bill has got independent cause of action, aggrieved party has to challenge the rateable value within 15 days from the receipt of such order or bill whichever is earlier. By the impugned order, the learned trial Judge allowed the application.

5. By separate order passed by me in Civil Revision Application No. 514 of 2013, I have directed the learned trial Judge to decide preliminary issue afresh. In view thereof, it is not necessary to examine merits of this application under Order 6 Rule 17 at this stage. Liberty is reserved to the defendant to revive the challenge in case occasion arises. Subject to that, Petition fails and the same is dismissed.

(R. G. KETKAR, J.)