

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

**CIVIL APPLICATION NO. 4305 OF 2014
IN
FIRST APPEAL NO. 1456 OF 2014**

Dr. Anand Shankarrao Utture ... Applicant/Intervenor

IN THE MATTER BETWEEN

Shri. Girish M. Rege ... Appellant.
V/s.

Shri. Guruprasad M. Rege & Anr. ... Respondent.

Mr. A.Y. Sakhare, Sr. Counsel a/w Sanjeev Kadam i/b Amit Karkhanis
for the applicant/Intervenor.

Mr. Rajeev Patil. Sr. Counsel i/b Mr. A.P. Shinde for the appellant.

Ms. Deepa Chavan i/b M/s. Madekar & Co. for respondent no.1.

Mr. M. P. Rao, Sr. Counsel a/w Prashant Chavan i/b M/s.Divekar & Co.
for respondent no.2.

**CORAM : K. K. TATED, J.
DATED : 28/01/2015.**

P.C.:

. Heard learned Counsel for the parties.

2 This application is preferred by the intervenor for joining him as
respondent party in First Appeal No. 1456 of 2014 filed by the
Appellant.

3 The appellant by this First Appeal challenges the order dated 20.11.2014 passed by the Charity Commissioner, Maharashtra State, Mumbai in Application under Section 47 of Bombay Public Trust Act, 1950 for appointment of Trustees in respect of trust known as “Balmohan Vidya Mandir.”

4 The Charity Commissioner by common Judgment dated 20.11.2014 appointed six persons as a Trustees of the said Trust with immediate effect. The operative part of the said order dated 20.11.2014 reads thus:

“ **ORDER**

i) *Application no. 1 of 2013 and Application No. 8 of 2013 are partly allowed.*

ii) *The following persons are appointed as trustees of the trust viz. Balmohan Vidyamandir, P.T.R. No.E/1075/Mumbai:-*

- 1) *Mr. Vasant Awadhut Kalpande*
- 2) *Dr. Vijay Vasant Khole*
- 3) *Dr. Anand Shankarrao Utture*
- 4) *Mr. Makarand Madhusudan Bhonsle*
- 5) *Mr. Rajesh S. Nadkarni*
- 6) *Ms. Supriya R. Nair*

iii) *They are directed to take charge of the trust, forthwith. The property of the Trust shall vests in them. They shall carry out the administration of the Trust as per the provisions of the Scheme and in the best interest of the Trust.*

iv) *Parties to note.*

v) *The original order be kept in Application*

no.1 of 2013 and copy be kept in Application No. 8 of 2013.

vi) Pronounced in the open court at 5.00 p.m.”

5 The appellant filed present Appeal challenges the said order dated 20.11.2014 on various grounds including the Power of the Charity Commissioner to appoint new Trustees under Section 47 of the Bombay Public Trust Act, 1950.

6 The present Civil Application is preferred by a person who is appointed as the Trustee of the said Trust by the impugned order dated 20.11.2014.

7 The learned Senior counsel Mr. Sakhare appearing on behalf of applicant submits that if any order passed by this court in the present First Appeal, is going to affect the rights of the applicant. He submits that the Charity Commissioner by impugned order dated 20.11.2014 directed newly appointed Trustees to take charge of the Trust forthwith. He further submits that pursuant to the order passed by the Charity Commissioner the names of the newly appointed Trustees also appeared in the Schedule-I, maintained by the Office of the Charity Commissioner. To that effect, he relies on Entry No. E-1075(M) dated

05.12.2014.

8 On the basis of these submissions, the learned Senior Counsel Mr. Sakhare appearing on behalf of the applicant submits that in the interest of justice this Hon'ble Court be pleased to direct the Appellant to join the applicant as respondent in the First Appeal no. 1455 of 2014.

9 On the other hand, the learned Senior Counsel Mr. Rajeev Patil appearing on behalf of appellant vehemently opposed the present Civil Application. The appellant filed their affidavit-in-reply dated 27.01.2015. The learned Senior Counsel for the appellant submits that the respondent nos.1 in his personal interest, supporting the application filed by the newly appointed Trustees for joining them as a party. He further submits that the applicant is not necessary party to the present proceeding because the appellant is challenging the order passed by the Charity Commissioner by which the applicant is appointed as Trustees of the said Trust. In any case, the applicant is not necessary party to the present First Appeal. Hence, there is no substance in the present Civil Application and same be dismissed with costs.

10 The learned Counsel appearing on behalf of the respondent no.1 and 2 make a statement that they have no objection, if the present Civil Application is allowed.

11 I heard both the sides at length. It is to be noted that in the present proceeding the learned Charity Commissioner by an order dated 20.11.2014 appointed applicant as a Trustee of the said Trust with immediate effect. Not only that, there is entry of the applicant's name as Trustee in Schedule-I, maintained by the Office of the Charity Commissioner. It is to be noted that if any order passed in the First Appeal is going to affect the interest of the applicant. In view of this fact, I am of the opinion that applicant is necessary party of the present proceeding.

12 Hence, Civil Application is allowed in following terms.

a) Appellant is directed to join applicant as respondent in First Appeal no. 1456 of 2014.

b) Amendment to be carried out within one week from today.

c) If amendment is carried out within stipulated time as

stated herein above, appellant is directed to serve the amended copy of First Appeal along with all pending Civil Applications, if any, to the added respondent.

d) Civil Application is disposed of accordingly.

(K.K.TATED, J.)