

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.5315 OF 2014

Hutatma Smarak Samiti, Ashti,
through its President,
Shri Arvind Govindrao Malpe,
Aged 71 years, Occupation – Private,
R/o Ashti, Tahsil-Ashti, District-Wardha.

.... **PETITIONER**

VERSUS

1) Ramkrushna Vishweshwar Ganjiwale,
Aged – Major, Occupation – Private,
R/o Ashti, Tahsil-Ashti, District-Wardha.

2) Krushnarao Udebhanji Ingle,
Aged – Major, Occupation – Private,
R/o Ashti, Tahsil-Ashti, District-Wardha.

3) Ravi Onkarappa Ganjiwale,
Aged – Major, Occupation – Private,
R/o Ashti, Tahsil-Ashti, District-Wardha.

.... **RESPONDENTS**

Shri P.A. Gode, Advocate for the petitioner,
Shri V.K. Paliwal, Advocate for the respondents.

CORAM : Z.A. HAQ, J.

DATED : 15th SEPTEMBER, 2015.

ORAL JUDGMENT :

1. Heard Shri P.A. Gode, learned Advocate for the petitioner

and Shri V.K. Paliwal, learned Advocate for the respondents.

2. **Rule.** Rule made returnable forthwith.

3. The respondents have filed an application under Section 41-B of the Maharashtra Public Trusts Act, 1950 praying that an enquiry be conducted in the affairs of the Trust. The petitioner filed an application (Exhibit No.10) praying that the application filed by the respondents be dismissed, as the respondents are not the members of the public Trust. The learned Assistant Charity Commissioner has rejected the application (Exhibit no.10) filed by the petitioner, by the impugned order. The petitioner being aggrieved by the order passed by the learned Assistant Charity Commissioner has filed this petition.

4. The contention of the petitioner is that the learned Assistant Charity Commissioner has not adverted to the objection raised by the petitioner that the application filed by the respondents under Section 41-B of the Maharashtra Public Trusts Act, 1950 is not maintainable at the behest of the respondents as they are not the members of the public Trust. It is further submitted that the respondents have filed an application under Section 41-D of the

Maharashtra Public Trusts Act, 1950 which is pending before the learned Joint Charity Commissioner in which similar allegations are made and as the learned Joint Charity Commissioner is ceased of the matter, it would not be appropriate that enquiry as contemplated under Section 41-B of the Maharashtra Public Trusts Act, 1950 is undertaken. It is submitted that there cannot be two simultaneous proceedings in the same matter. It is prayed that the impugned order be set aside and the application filed by the respondents under Section 41-B of the Maharashtra Public Trusts Act, 1950 be dismissed.

5. Shri V.K. Paliwal, learned Advocate for the respondents has supported the impugned order.

6. After hearing the learned Advocates for the respective parties, I am of the view that the impugned order does not require any interference. The enquiry under Section 41-B of the Maharashtra Public Trusts Act, 1950 can be directed on application of any person having interest in the public Trust or *suo motu* by the Charity Commissioner, Deputy Charity Commissioner or Assistant Charity Commissioner. The learned Assistant Charity Commissioner has not applied his mind to the aspect as to whether the enquiry should be

directed or not. The impugned order is an interlocutory order rejecting the objection raised on behalf of the petitioner. In my view, it would not be appropriate for this Court to interfere with the process at this stage.

7. In the result, the petition is dismissed. In the circumstances, the parties to bear their own costs.

JUDGE

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