

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 4317 OF 2016

Anand s/o Sheshrao Bharose .. Petitioner
vs
The Assistant Charity Commissioner
and others .. Respondents

Mr. Sudhir K. Chavan, Advocate for petitioner
Mr. G. O. Wattamwar, Asstt. Govt. Pleader for respondent no.1
Mr. D. J. Choudhari, Advocate for respondent no.2 - caveator

CORAM : SUNIL P. DESHMUKH, J.
DATE : 13TH APRIL, 2016

ORDER :

1. Heard learned counsel appearing on behalf of the petitioner and learned counsel Mr. D. J. Choudhari appearing on behalf of respondent no. 2.

2. It is being submitted on behalf of the petitioner that respondents no. 2 and 3 are now in collusion and under the circumstances, respondent no. 3 who was the original objection petitioner and who has withdrawn himself from the objection, is sought to be examined as a witness for the present petitioner.

3. While the petitioner had adduced evidence, there was no request nor any list of witnesses to be examined was given. After his examination and cross examination was over, an application at

Exhibit – 60 came to be moved on 05-04-2016 seeking examination of respondent no. 3 as witness. The court has by order passed on the same day has rejected the request and the same is impugned in present petition.

4. While passing the order impugned referring to that the matter is time bound under the orders of the high court passed from time to time, the assistant charity commissioner has made observation that the original objection petitioner has withdrawn his objection.

5. Learned counsel for the petitioner refers to Order XVI, rule 14 of the Code of Civil Procedure, 1908 as well as rule 21 of the Code and contends that the assistant charity commissioner can invoke powers pursuant to said provisions as well as section 151 of the Code. For said purpose, he refers to a decision of honourable single judge in the case of *Ramdas Dhondibhu Pokharkar vs. State Bank of India*, reported in 2002 BCI 118. The facts in aforesaid case are quite apart from the one involved in the present matter.

6. As can be seen from various orders passed, the Division Bench time and again at least thrice has extended time for disposal of concerned change reports and has given ultimatum for the same.

7. If the petitioner is going aggrieved by the order rejecting his application and by which his case he feels is likely to be prejudiced,

he may take up such pleas/objections/grounds, if it comes to filing of appeal against final decision in respect of such order. Needless to say that these observations are confined to the change report concerned.

8. With observations as aforesaid writ petition stands disposed of.

SUNIL P. DESHMUKH,
JUDGE

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