

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

WRIT PETITION NO. 6122 OF 2016

Babanrao s/o Baburao Kure
Age: 59 years, Occu. Social Worker/President
R/o. Deshmukh Galli, Ta. Sonpeth,
Dist. Parbhani ... Petitioner

Versus

1. Balasaheb s/o Madhavrao Muley
Age: 59 years, Occu. Agril.,
R/o. Nimgaon, Post-Sonpeth,
Ta. Sonpeth, Dist. Parbhani
2. Gurunath s/o Belappa Mhetre
Age: 58 years, Occu. Agril,
R/o. Mhetre Newas, Police Station Road,
Sonpeth, Ta. Sonpeth, Dist. Parbhani ... Respondents

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Mr. Anand V. Patil (Indrale), Advocate for petitioner
Mr. Shyamsunder H. Jagiasi, Advocate for respondents –
caveators.

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CORAM : SUNIL P. DESHMUKH, J.

DATE : 14th JUNE, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally
by consent of the learned advocates of the parties.
2. The grievance and contention on behalf of the petitioner
is that on 22nd January, 2016, the Assistant Charity

Commissioner, Parbhani, passed an order by which "no evidence" order came to be set aside subject to payment of cost of Rs.2000/-. However, no time limit for deposit of costs was fixed and as such said costs could not be deposited by petitioner and as such, the matter appears to have been proceeded further under order dated 7th June, 2016 without evidence of the objection petitioner.

3. Having regard to aforesaid, without going into the rival claims, it would be expedient and in the interest of justice, not to go into the technicalities, in order to let the petitioner to take corrective action enabling him to avail of one more opportunity.

4. In the circumstances, impugned order is set aside. The proceedings pending before the Assistant Charity Commissioner may go on expeditiously and be disposed of preferably within a period of four months from the date of receipt of writ of this order. Of course, for setting aside the impugned order dated 7th June, 2016 upon application Exhibit-55, costs be paid by the petitioner to the respondents. Payment of costs is condition precedent for operation of aforesaid order.

5. The petitioner shall deposit a sum of Rs. 7,500/-, including the amount of Rs.2000/- as per order of Assistant Charity Commissioner, before said authority for equal distribution among the respondents in this writ petition. The costs be deposited within a period of two weeks from the date of receipt of this order.

6. Rule is made absolute in aforesaid terms.

7. Writ petition, as such, stands disposed of.

(SUNIL P. DESHMUKH, J.)

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