

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.9596 OF 2015**Shri Govind Maharaj Sansthan Pimpalgaon Vs. Shri Vitthal
Mandir Pimpalgaon through its Trustee.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
--	---------------------------

Mr.Amol Joshi, advocate holding for Mr.R.S.Deshmukh, advocate for the petitioner.

Mr.A.G.Talhar, advocate for the Respondent

CORAM : S.V.GANGAPURWALA, J.**Date : 21.03.2016.****PER COURT :**

1. Heard.

2. Mr.Joshi, learned counsel for the petitioner states that the petitioner has specifically raised the ground about the jurisdiction of the Court, so also the suit being not maintainable on account of Sections 50 and 51 of the Bombay Public Trusts Act. However, while rejecting the application the Court has observed that earlier when the issues are framed all aspects have been taken into consideration. The same is erroneous.

3. Mr.Talhar, learned counsel for the Respondent supports the order and submits that the suit does not concern with the internal

matter of the trust. The plaintiff-trust is claiming declaration of its civil rights in the suit property, as such the bar U/ss 50 and 51 is not attracted.

4. A fact affirmed by one party and denied by another gives rise to an issue U/o 14 of the C.P.C. The petitioner has specifically raised the contention. In view of the contentions raised, the issue needs to be framed. It is another fact whether the party proves the said issue.

5. In light of the above, the application Exh.157 is partly allowed. The trial Court shall frame the issue with regard to the maintainability of the suit in absence of permission of the ACC as per Sections 50 and 51 of the Bombay Public Trusts Act (Now Maharashtra Public Trusts Act), so also shall frame the issue with regard to the jurisdiction of the Court.

6. The Writ Petition is accordingly allowed. No costs.

(S . V . GANGAPURWALA, J .)

Dt.21.03.2016.
asp/office/wp9596.15

