

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1432 OF 2016

Mrs. Sampada Ganpat Desai]
Age: 46 years, Occu: Agriculturist and Business]
Residing at: Mouje Kalne, Tal. Dodamarg,]
Dist. Sindhudurg].. Petitioner

Versus

1. Her Highness Shrimati]
Satvashila Devi Shivram Savant Bhosale]
Age: about 81 years, Occu: Nil,]
Dakshin Ratnagiri Zilha Shikshan Prasarak]
Mandal, Savantwadi,]
Residing at: Rajwada, Savantwadi,]
Dist. Sindhudurg.]

2. Shri. Subhash Lakshan Desai (Deceased)]
Joint Secretary,]
Dakshin Ratnagiri Jilha Shikshan Prasarak]
Mandal, Savantwadi.].. Respondents

Mr. S. C. Wakankar, for the Petitioner.

Mr. A. M. Adagule, for the Respondent No.1.

CORAM : R.M. SAVANT, J.
DATE : 22nd APRIL 2016

ORAL JUDGMENT

1. At the outset, the Learned Counsel for the Petitioner seeks deletion of the Respondent No.2 as he has already expired. The said Respondent is accordingly deleted at the request of the Petitioner.

2. Rule, with the consent of the Learned Counsel for the parties made returnable forthwith and heard.

3. The writ jurisdiction of this Court under Article 227 of the Constitution of India is invoked against the order dated 15.09.2015 passed by the Assistant Charity Commissioner, Sindhudurg Region, Sindhudurg, by which order, the application Exh.38 filed by the Petitioner in Inquiry Application NO.341 of 2014 came to be rejected.

4. It is not necessary to burden this order with unnecessary details having regard to the nature of the controversy involved. Suffice it to state that proceedings under Section 41A of the Bombay Public Trust Act, 1950 are presently ongoing before the Assistant Charity Commissioner. It seems that the Assistant Charity Commissioner has passed an order on 01.02.2014 in respect of the management of the Respondent No.1 Trust. The Petitioner herein has filed an application Exh.37 alleging breach and violation of the said order dated 01.02.2014

by the Respondent No.1. In the said application, it appears that the date of the concerned meeting of the Respondent No.1 has been mentioned as 14.12.2015 instead of 14.02.2015. The said application Exh.37 is pending hearing and final disposal. Since no meeting took place on 14.12.2015 and the Petitioner in fact was referring to the meeting dated 14.02.2015, the Petitioner filed an application for amendment of the said application Exh.37 so as to correct the said date 14.12.2015 to 14.02.2015. The said application was filed on 16.03.2015. The said application was opposed to on behalf of the Respondents Nos.1 and 2, as the Respondent No.2 was alive at the said point of time. The said application for amendment correction was opposed on the ground that the main matter being fixed for final hearing, the said application was not tenable. The Assistant Charity Commissioner, Sindhudurg Region, Sindhudurg, considered the said application and as indicated above has by the impugned order dated 15.09.2015 rejected the same. The said rejection is on the ground that the Applicant cannot be allowed to correct mistakes which have occurred in the application Exh.37 and that the amendment is not necessary for determining the real question in controversy between the parties. As indicated above, it is the said order dated 15.09.2015 which is taken exception to by way of the above Petition.

5. The Learned Counsel for the parties made submissions for and

against the amendment being allowed. However, the Learned Counsel for the Respondent No.1 Mr. A. M. Adagule though opposed the application fairly submitted that since the amendment is restricted to the correction in the date, he would leave it to this Court whether the amendment is to be granted or not. In my view, having regard to the fact that the amendment sought is only in respect of the correction of the date and since there is no dispute as regards the date of the meeting that the meeting took place on 14.02.2015, no prejudice would be caused to the other side if the amendment is allowed and date is allowed to be corrected from 14.12.2015 to 14.02.2015. Such correction would not take away any admission or cause any prejudice to the Respondent No.1 herein. Hence, the impugned order dated 15.09.2015 is quashed and set aside and the application Exh.38 would stand allowed. The Petitioner would be entitled to correct the date of the meeting from 14.12.2015 to 14.02.2015 in the said Exh.37. Amendment to be carried out within two weeks from date. The Petition is allowed to the aforesaid extent. Rule is accordingly made absolute in the aforesaid terms, with parties to bear their respective costs.

[R.M. SAVANT, J]