

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6160 OF 2016

Sattar Abdulgani Shaikh

...Petitioner

Versus

The Assistant Charity Commissioner,
Pune Division, Pune & Ors.

...Respondents

...

Mr. A.A. Gharte for the Petitioner.

Mr. P.P. Kakde, A.G.P. for Respondent-State.

Mr. D.D. Rananaware for Respondent No.5.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : 11th AUGUST, 2016.

P. C. :

Heard the learned counsels appearing for the respective parties.

2. The challenge in this petition under Article 226 of the Constitution of India, is to the order passed by the Maha Lok-Adalat on 16.9.2012 on a Change Report No.293 of 2010 filed by Respondent No.5 under section 22 of the Bombay Public Trust Act, 1950.

3. The order passed by the Maha Lok-Adalat on 16.9.2012 reads as under:

“1. The application is filed to report the change

in respect of death/ change in Trustee Committee/
change in address.

2 In support of the application, the applicant has filed copy of previous change report/ death extract/ proof of change in address/copy of notice/service proof/attendance roll/copy of proceeding book/ no objection of outgoing trustees/consent of incoming trustees and affidavit.

3 The matter is uncontested. All these documents collectively show that the trust has followed due process to report the change. Hence, order:-

-: ORDER :-

- 1) The application is allowed.
- 2) The reported change has been accepted.
- 3) Necessary entry be made in P. T. Register.
- 4) Disposed in Maha Lok-Adalat.”

4. On conjoint reading of various sub sections of section 20 of the Legal Services Authorities Act, 1987, it appears to us that Lok Adalat can dispose of the cases only by way of settlement and compromise. Even Sub- section (5) of of Section 19 of the said Act, makes this aspect of the limitation on the powers of Lok Adalat very clear. It is evident from the plain reading of the provisions of said Act of 1987, that, the Lok Adalat has no power to make an adjudication by following the procedure which is required to be followed in case of trial

of suits. Furthermore, considering the peculiar scheme of section 22 of the Bombay Public Trust Act, 1950, a change report cannot be allowed even by consent without holding an inquiry and without recording reasons.

6. Now reverting to the impugned order, the matter was not settled or compromised and it is disposed of on merit by observing that the Change Report was uncontested and the Trust has followed due process to report the change. Needless to state that the Lok Adalat had no jurisdiction to decide the change report on merits.

8. Under the circumstances, we dispose of the petition by passing following order :-

a) The impugned order passed by the Maha Lok Adalat dated 16th September, 2012 on the Change Report No.293 of 2010 is hereby quashed and set aside and the Change Report is restored to the file of learned Assistant Charity Commissioner, Pune Region, Pune;

b) The Assistant Charity Commissioner, Pune, shall decide the Change Report as expeditiously as possible in accordance with law;

- c) We have made no adjudication on the merits of the Change Report;
- d) The petition is partly allowed on the above terms with no order as to costs.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)