

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1715 OF 2015

IN

FIRST APPEAL NO. 567 OF 2015

Abdul Lateef Haji & Ors.

...Appellants

Versus

Bhiwandi Weavers Education Society & Ors.

...Respondents

Mr. G.S. Godbole, i/b Mr. S.S. Kothari & Mr. D.S. Patil, for the Appellants.

Mr. R.M. Haridas, i/b Mr. A.P. Mhatre, for Respondents No. 2 to 5, 8 and 11.

CORAM : R.M. SAVANT, J.

DATE : 26th July 2016

P.C. :

1. The above Civil Application has been filed for interim reliefs pending the above First Appeal. The interim relief sought is by way of stay to the effect, implementation and execution of the impugned Judgment and Order dated 11th March 2015 passed by the learned District Judge -2, Thane in Miscellaneous Application No.

91 of 2010.

2. The Respondent No. 1 is a public Trust registered under the Bombay Public Trust Act now known as the Maharashtra Public Trust Act. The controversy, which has given rise to the proceedings culminating in the impugned order, are relating to the elections of the said Trust which took place in the year 2008. The said elections which took place in the year 2008 resulted into the Change Report No. 559 of 2008 being filed on behalf of the Respondents No. 2 and 3. The Change Report was accepted on 18th May 2009 by the Assistant Charity Commissioner. The said order dated 18th May 2009 passed by the Assistant Charity Commissioner was carried in Appeal by the Appellants herein who are opponents in the said proceedings by filing Appeal No. 24 of 2009. The Joint Charity Commissioner allowed the said Appeal and set aside the order dated 18th May 2009. The Respondents herein thereafter filed the Miscellaneous Application before the District Court being Miscellaneous Application No. 91 of 2010, which has culminated in the impugned order dated 11th March 2015. The learned District Judge-2, Thane by the impugned order has observed that in the light of the binding order passed in the earlier Miscellaneous Application No. 48 of 2007, the

Joint Charity Commissioner had erred in setting aside the order dated 18th May 2009. The Trial Court has also observed that subsequent event relating to the elections of the year 2010 and 2013 would also have no impact. Insofar as the elections of the year 2008 are concerned, which according to the Trial Court, were required to be held in terms of the order passed in the Miscellaneous Application No. 48 of 2007, which was confirmed by this Court in First Appeal and thereafter, though leave has been granted by the Apex Court, no interim stay has been granted.

3. It is required to be noted that pursuant to the directions issued by the Joint Charity Commissioner elections were held to the Respondent No. 1 Trust in the year 2010 and thereafter, again elections were held in the year 2013. It is pertinent to note that insofar as the elections held in the year 2010 are concerned, an objection was filed to the Change Report filed by the reporting Trustees in respect of the said elections. The objectors were the present Respondents No. 2 and 3 or the persons of their group. The said objections were turned down by the Assistant Charity Commissioner, who passed an order of acceptance of the Change Report on 7th February 2014. It is an undisputed position that the

said order was not further challenged and has therefore, attained finality insofar as the elections of the year 2010 are concerned. Insofar as the elections of the year 2013 are concerned, it seems that the objection was raised to the Change Report filed pertaining to the said election. However, the said objection was turned down which was post the impugned order. However, the matter has not been carried out further and rested at the said stage, the Assistant Charity Commissioner accepting the Change Report of the year 2014. In the light of the aforesaid facts, the impugned order dated 11th March 2015 is required to be stayed. Hence, there would be interim relief in terms of prayer clause (a).

4. However, it is clarified that this Court has not expressed any opinion as regards the number of members who are entitled to participate in the elections and it is for the existing board of Trustees to hold the elections in accordance with law. The Civil Application is accordingly disposed of.

[R.M. SAVANT, J.]