

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8848 OF 2016

Shri Abdullah Md. Shakur Kureshi .. Petitioner
VS.
The State of Maharashtra & Ors. .. Respondents

Mr. Shyam Trivedi i/b. A. R. Rayani for Petitioner.
Mr. S. D. Rayrikar – AGP for State - Respondent No. 1.

CORAM : M. S. SONAK, J.
DATE: 17 OCTOBER 2016

P.C :

- 1] Heard Mr. Trivedi, learned counsel for the petitioner and Mr. Rayrikar, learned AGP for the State – Respondent No. 1.
- 2] The challenge in this petition is to the order dated 12 January 2016 made by the Deputy Charity Commissioner, Solapur, dismissing the petitioner's application to be impleaded as a party to the proceedings being change report no. 98 of 2013.
- 3] Mr. Trivedi, learned counsel for the petitioner submits that the petitioner is life member of the trust in question. Therefore, he submits that in terms of Section 73A of the Maharashtra Public Trusts Act, 1950 (Trust Act), the petitioner is entitled to be impleaded as a party respondent. Mr. Trivedi also submits that the

petitioner is a '*person having interest*' as defined under Section 2(10) of the Trust Act. For these reasons, he submits that the impugned order is liable to be set aside.

4] Having considered Mr. Trivedi's submissions and perused the record, in my judgment, there is no case made out to interfere with the impugned order.

5] In the first place, when the matter was called out before the Deputy Charity Commissioner, neither the petitioner nor his lawyer were present. There is no explanation even in this petition as to why, the petitioner and his Advocate remained absent on the date when the impugned order was made.

6] That apart, the mere circumstance that the petitioner is a member or a life member of the trust is not, by itself, sufficient to seek impleadment under Section 73A of the Trust Act. The petitioner, has to both plead and establish that the petitioner is indeed a person having interest in the public trust and the change report, if permitted, will adversely affect such interest or at least, affect such interest in some manner. Mere circumstance that the petitioner is a member or a life member is by no means sufficient to entitle the petitioner, as a matter of right, to seek impleadment.

7] The discretion, in this case has been exercised fairly by the Deputy Charity Commissioner. Accordingly, there is no reason to interfere with the impugned order.

8] This petition is therefore dismissed. In the facts and circumstances of the case, there shall be no order as to costs.

(M. S. SONAK, J.)

Chandka