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1/6 FA 71-75/16 aw CAF 149-152 156/16
and FA 687/15 aw CA 2095/15-6/4/16

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 687 OF 2015

a/w

CIVIL APPLICATION NO. 2095 OF 2015

Sanjay R. Deshpande and ors.

... Appellants

vs.

Rajendra Dharma Jadhav and ors.

... Respondents

WITH

FIRST APPEAL NO. 71 OF 2016

a/w

CIVIL APPLICATION NO. 149 OF 2016

Sanjay R. Deshpande and ors.

... Appellants

vs.

Amol Ankush Jadhav and ors.

... Respondents

WITH

FIRST APPEAL NO. 72 OF 2016

a/w

CIVIL APPLICATION NO. 150 OF 2016

Gram Shikshan Samiti Tingari and ors.

... Appellants

vs.

The Joint Charity Commissioner, Nashik

... Respondent

WITH

FIRST APPEAL NO. 73 OF 2016

a/w

CIVIL APPLICATION NO. 151 OF 2016

Balu Motiram Borse and anr.

... Appellants

vs.

Vishwash Ramchandra Deshpande and ors.

... Respondents

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WITH
FIRST APPEAL NO. 74 OF 2016
a/w
CIVIL APPLICATION NO. 152 OF 2016

Amol Ashok Pawar and ors. ... Appellants

vs.

Sanjiv Ramchandra Deshpande and ors. ... Respondents

WITH
FIRST APPEAL NO. 75 OF 2016
a/w
CIVIL APPLICATION NO. 156 OF 2016

Gram Shikshan Samiti Tingari and ors. ... Appellants

vs.

Amol Ashok Pawar and ors. ... Respondents

Mr. Milind Sathaye, Advocate for the appellants/applicants in FA 71/16, 72/16, 75/16 & 687/15.

Mr. Rajendra M. Haridas, Advocate for the appellants/applicants in FA 73/16, 74/16 and for respondents no.1 to 11, 13 to 16 in FA 75/16, for respondents no.8 and 13 in FA 687/15.

Mr. B. D. Joshi a/w Ms. Gauri Jadhav, Advocate for respondents no. 1 to 6 in FA 71/16 & FA 72/16 and for respondents no. 1 to 4, 6, 10, and 25 in FA 687/15.

Mr. A. R. Patil, Additional Government Pleader for the State.

Mr. Jitendra Pathade, Advocate for respondents no.5, 7, 9 & 11 in FA 687/15.

Coram : Smt. R. P. SondurBaldota, J.

Date : 6th April, 2016.

P.C.

1. Considering the nature of the controversy in the appeals, the same are taken up for final hearing at the stage of admission.

2. Mr. B. D. Joshi, the learned advocate appearing for the respondents undertakes to file appearance during the course of the day on behalf of the respondents no.1, 2, 3, 4, 6, 10 and 25 in First Appeal No.687 of 2015 and respondents no.1 to 6 in First Appeal No. 71 of 2016.

3. This is a common order on the above four appeals that arise out of the order dated 3rd June, 2015, by which the Joint Charity Commissioner, Nashik Region, Nashik has disposed off four enquiry applications i.e. Enquiry Application No.15 of 2013, Enquiry Application No.2 of 2013, Enquiry Application No.4 of 2014 and Enquiry Application No. 19 of 2014 filed under Section 47 of the Maharashtra Public Trusts Act. All the applications pertain to a trust by name Gram Shikshan Samiti Tingari, Tal. Malegaon, Dist. Nashik. The trust is also registered under the provisions of the Society Registration Act, 1890. At the time of settling of the trust in the year 1968, there were nine members of the Managing Committee as provided by the Trust Deed. One of them being the President and another being the Secretary and the

remaining seven being the executive committee members. During the period 14th December, 1976 to 28th August, 2012 all the members of the Managing Committee expired. In the year 1993, a change report had been submitted by the then surviving Managing Committee members for deletion of the names of four Managing Committee members who had expired then and selection of members in their place. The Assistant Charity Commissioner by his order dated 11th November, 1993 rejected the change report. That order was not challenged by anybody and as such it became final. After all the original members of the Managing Committee expired, the applications mentioned hereinabove came to be filed essentially by the heirs and relatives of the deceased Managing Committee members, some of whom are applicants in more than one enquiry application. The Joint Charity Commissioner disposed off the applications, by the impugned order selecting respondents no.1, 2, 3, 4, 6, 10 and 25 to First Appeal No. 687 of 2015 and appellants no.2 and 3 in the same appeal as the members of the Managing Committee.

4. Perusal of the impugned order shows that there are no reasons, whatsoever, stated therein for selection of the members of the Managing Committee. This would mean that the selection of the nine persons as the Managing Committee members has been

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absolutely arbitrary and without any reasonable basis.

Considering the fact that the trust in question is an educational trust, it was absolutely necessary for the learned Charity Commissioner to look into the educational background of the persons appointed, their status in society and their capacity to administer and manage an educational trust. Therefore, the impugned order cannot be sustained and the applications are required to be remanded to the Joint Charity Commissioner for fresh consideration. Therefore, the appeals are allowed. The order dated 3rd June, 2015 is set aside. The parties shall appear before the Joint Charity Commissioner, Nashik Region, Nashik on 18th April, 2016 at 11 am. for fresh hearing of the applications. The Joint Charity Commissioner is directed to hear and dispose off the applications within a period of three months from 18th April, 2016. In the meantime, the persons appointed as the members of the Managing Committee shall continue to administer the trust as on Ad-hoc Committee. Mr. Sathey informs that one of the appointees i.e. Sanjay Ramchandra Deshpande is no-more. A complaint has been made that appointee no.2 Ashok Ramchandra Deshpande is not permitted to participate in the management of the trust. This complaint is disputed by the other members selected. Instead going into the controversy, it is sufficient to direct that all the

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decisions as regards management of the trust shall be taken with participation of all the members appointed. It is also directed that all the meetings of the trust shall be conducted in the premises of the school itself and sufficient notice of the meeting should be given to all the members. Since the Committee will be functioning as an Ad-hoc Committee it shall not take any major policy decisions or any decision involving substantial expenses.

5. In view of the order of disposal of appeals, Civil Applications No. 2092 of 2015, 149 of 2016, 150 of 2016, 151 of 2016, 152 of 2016 and 156 of 2016 do not survive. The same are, accordingly, disposed off.

[Smt. R. P. SondurBaldota, J.]