

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**REVIEW PETITION NO. 21 OF 2016
IN
FIRST APPEAL NO. 1292 OF 2013**

Pramila Sumansingh Thakur ... Petitioner
Vs.
Sudhakar Baburao Lagad & Ors. ... Respondents

Ms. Pramila Sumansingh Thakur, petitioner appearing in person.
Ms. Sujata A. Mhadgut, Advocate for respondent nos. 1 & 2.
Mr. M.G. Patil, AGP for respondent no. 3.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **23rd December, 2016**

P.C.:

This Review Petition is directed against the order dated 2nd December, 2015 passed by this Court in First Appeal No. 1292 of 2013, thereby dismissing the said Appeal. The petitioner has submitted that the dates mentioned and the findings given in the order are wrong. She has submitted that this Court has perused the wrong orders and given findings based on it. She submitted that the order passed by the Joint Charity Commissioner dated 21st December, 2006 is wrongly mentioned, it should be 12th March, 2013, so also the order passed by the City Civil Court is wrongly mentioned as 19th July, 2008, it should be 6th September, 2013.

2. At the outset, I make it clear that in the first paragraph of the order

dated 2nd December, 2015, the dates of the orders which are wrongly mentioned hence are deleted and the following dates are substituted by consent of both the parties:

- (i) The date of the order passed by the Joint Charity Commissioner is wrongly mentioned as 21st December, 2006, hence it is deleted and the same is substituted by 12th March, 2013.
- (ii) The date of the order passed by learned Judge of City Civil Court, Mumbai is wrongly mentioned as 19th July, 2008 hence it is deleted and the same is substituted by 6th September, 2013.
- (iii) Charity Application No. 10 of 2007 is deleted and Charity Application No. 7 of 2013 is substituted.
- (iv) In paragraph 2 of the order dated 2nd December, 2015, in substantial question of law, the word “Deputy” is deleted.

3. Thus, Review Petition is partly allowed to this extent.

4. I have heard the petitioner and the learned counsel for respondent nos. 1 and 2 extensively, as the petitioner has taken out two branches of proceedings in respect of two change reports. At the outset, I hold that the ground for review is not made out, as neither the error is apparent on the face of record nor any condition required under Order 47 or Section 115 of Civil Procedure Code is made out. However, the petitioner being a party-in-person, I find it necessary to mention certain chronology of facts

to avoid confusion.

5. In Vithoba Kanuji Lagad Charitable Trust, there were three trustees. Out of these three trustees, 2 died in the year 2000 or 2001 and therefore, the survivor trustee Mr. Yeshwant Lagad moved an application for change report, which is numbered as 2587 of 2003. The sole surviving trustee added petitioner as a trustee, so to that effect, change report was again made in July 2003. The said change report was decided in favour of Yeshwant Lagad and the petitioner on 31st July, 2003. Thereafter on 22nd December, 2003 Yeshwant Lagad died. The order of allowing the said change report was challenged before the Joint Charity Commissioner in Revision Application No. 3 of 2006 and the Joint Charity Commissioner allowed the said Revision on 21st December, 2006. The said order was challenged before the City Civil Court by the petitioner in Application No. 10 of 2007. The City Civil Court by its order dated 19th July, 2008 maintained the order of the Joint Charity Commissioner rejecting the change report no. 2587 of 2003. Against the said order, the petitioner filed First Appeal No. 1675 of 2008, which she withdrew on 22nd September, 2008. Thus, the order dated 19th July, 2008 holding the change report of adding the name of the petitioner invalid and attained finality.

6. Meanwhile the petitioner had approached the Charity Commissioner by filing Application No. 19 of 2007 and informed that the change report dated 9th January, 2001 filed by the earlier trustee Yeshwant Lagad was misplaced and prayed for reconstruction of the change report. The Charity Commissioner by its order asked the Deputy Charity Commissioner to do needful if the change report is to be reconstructed and decide the said application. The Deputy Charity Commissioner passed the order of reconstruction on 22nd May, 2007 and numbered it as 1886 of 2007 and allowed the change report on 28th May, 2007. Thereafter the respondents filed First Appeal No. 17 of 2009 before the Joint Charity Commissioner, who allowed the said appeal by the order dated 12th March, 2013. Thereafter the petitioner moved Charity Application No. 7 of 2013 before the City Civil Court and the City Civil Court rejected her application by order dated 6th September, 2013. Against these two orders, First Appeal No. 1292 of 2013 was filed in the High Court. The Joint Charity Commissioner by order dated 12th March, 2013 has held that the order of reconstruction was obtained by suppression of earlier order dated 21st December, 2006 passed by the Joint Charity Commissioner. As per the appellant, a substantial question of law is mentioned in paragraph 2 of the order under review. I have held that no substantial question of law was made out in view of the orders in the proceedings and I hereby maintain the said finding. The submissions

of the petitioner that there are certain errors in the order and therefore, the petition needs to be reviewed in its entirety, cannot be accepted. But, Review Petition is allowed to certain extent of correction of dates of the order.

7. The learned counsel for the respondent nos. 1 and 2 relied on the judgment of Hon'ble Supreme Court in the case of **Rajender Kumar & Ors. vs. Rambhai & Ors., reported in AIR 2003 SC 2095.**

8. I rely on the judgment of Supreme Court in the case of **Rajender Kumar & Ors. (supra)** wherein it is held that "The first and foremost requirement of entertaining a review petition is that the order, review of which is sought, suffers from any error apparent on the face of the record and permitting the order to stand will lead to failure of justice. In the absence of any such error, finality attached to the judgment/order cannot be disturbed."

9. Thus, the main prayer of Review Petition to recall the entire order is rejected, however, Review Petition is partly allowed as mentioned above.

(MRIDULA BHATKAR, J.)