

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

**APPEAL FROM ORDER (STAMP) NO. 24200 OF 2016
WITH
CIVIL APPLICATION (STAMP) NO. 24201 OF 2016
IN
APPEAL FROM ORDER (STAMP) NO. 24200 OF 2016**

1. Mr.Kishor K. Mehta
Aged 78 years, Indian
Inhabitant Founder/Permanent
Trustee for Life Lilavati Kirtilal
Mehta Medical Trust residing at
Usha Kiran, 18th Floor, 15,
Carmichael Road, Mumbai-400
026.

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2. Mrs. Charu K. Mehta
Aged 73 years, Indian Inhabitant
Founder/ Permanent Trustee for Life
Lilavati Kirtilal Mehta Medical Trust
residing at Usha Kiran, 18th Floor, 15,
Carmichael Road,
Mumbai-400 026

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Applicants/Appellants

Versus

1. Justice J.N. Patel (Retd.)
Ex Chairman - Interim Board of
Trustees
Planet Godrej, Tower No.5, 2501, 30
K.K. Marg, Jacob Circle,
Mumbai- 400 011

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2. Mrs. Rekha H. Sheth }
 Founder/Permanent Trustee for Life }
 Lilavati Kirtilal Mehta Medical Trust }
 A-791, Bandra Reclamation, Bandra } **Respondents**
 (West), }
 Mumbai-400 050 }

AND

**APPEAL FROM ORDER (STAMP) NO. 24204 OF 2016
 WITH
 CIVIL APPLICATION (STAMP) NO. 24206 OF 2016
 IN
 APPEAL FROM ORDER (STAMP) NO. 24204 OF 2016**

1. Mr.Prashant Mehta }
 Aged 45 years }
2. Mr.Rajiv Mehta }
 Aged 48 years }
3. Mrs.Reshma R. Mehta }
 Aged 45 years }
4. Mr.Rajesh Mehta }
 Aged 50 years }
 Having their office at Diamond } **Applicants/Appellants/**
 House, 9, Vaccha Gandhi Road, } **Intervener**
 Gamdevi, Mumbai 07. }

IN THE MATTER BETWEEN

1. Mr.Prashant Mehta }
 Aged 45 years }
2. Mr.Rajiv Mehta }
 Aged 48 years }
3. Mrs.Reshma R. Mehta }
 Aged 45 years }

4. Mr.Rajesh Mehta

Aged 50 years

Having their office at Dimond
House, 9, Vaccha Gandhi Road,
Gamdevi, Mumbai 07.

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Applicants/Appellants**Versus****1. Justice J.N. Patel (Retd.)**

Ex Chairman – Interim Board of
Trustees

Planet Godrej, Tower No.5, 2501, 30
K.K. Marg, Jacob Circle, Mumbai- 400
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2. Mrs. Rekha H. Sheth

Founder/Permanent Trustee for Life
Lilavati Kirtilal Mehta Medical Trust
A-791, Bandra Reclamation, Bandra
(West),
Mumbai-400 050

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3. Mr.Kishor K. Mehta

Aged 78 years, Indian
Inhabitant Founder/Permanent
Trustee for Life Lilavati Kirtilal
Mehta Medical Trust residing at
Usha Kiran, 18th Floor, 15,
Carmichael Road, Mumbai-400
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4. Mrs. Charu K. Mehta

Aged 73 years, Indian Inhabitant
Founder/ Permanent Trustee for Life
Lilavati Kirtilal Mehta Medical Trust
residing at Usha Kiran, 18th Floor, 15,
Carmichael Road,
Mumbai-400 026

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Respondents

Appearances :-

Mr.Yashank Andhyaru with Mr.Kartik Sheth and Mr.Abhishek Prabhu i/b. M/s.Thakore Jariwala and Associates for the Applicants/Appellants in AOST/24200/2016 and CAAST/24201/2016.

Mr.Aabad Ponda with Mr.Dakshash Vyas i/b. Jayesh G. Gawde for the Applicants/Appellants in AOST/24204/2015 and CAAST/24206/2016.

Mr.Prateek Saksaria with Ms.Jesal Shah i/b. Daru Shah for Respondent No.2 in both matters.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 31ST AUGUST, 2016.

ORAL JUDGMENT :

- 1] Admit.
- 2] As the appeals are heard finally at length, with consent of learned counsel for the parties, they are decided at the stage of admission itself.
- 3] As both these appeals raise common question of facts and law, they are heard together and being decided together by this common judgment.
- 4] Both the appeals take an exception to an order dated

26th August, 2016 passed by the City Civil Court, Borivali Division, Dindoshi, Mumbai in Notice of Motion No.2132 of 2016 in Suit No.1498 of 2016.

5] For the sake of convenience initially we deal with the facts and controversy involved in Appeal from Order (Stamp) No.24200 of 2016, as the appellants there in had filed the suit before the Trial Court.

6] Appellants are the permanent Trustees of Leelavati Kirtilal Mehta Medical Trust (hereinafter referred to as “the Trust”). By filing the Notice of Motion in the suit filed before the trial Court, appellants had sought the interim relief that the effect and operation of the resolutions passed in the 44th Board Meeting dated 30th April, 2016 be stayed. By the impugned order, the Trial Court dismissed the said Notice of Motion. Hence, the instant appeal.

7] This case has a chequered history of litigation and for understanding and appreciating the controversy, a brief reference to the said history of litigation and the facts becomes necessary.

8] On 5.7.1978 Leelavati Kirtilal Mehta Medical Trust was settled by the late Shri Kantilal Manilal Mehta, by virtue of a registered Trust Deed. As per Clause 16 of the Trust Deed, the appellant No.1, 2 and Respondent No.2 became permanent trustees for the life time. On account of the internal disputes between them, the matter reached upto the Apex Court and vide its order dated 21st May, 2014, passed in Special Leave Petition No.3772 of 2014, the Apex Court thought it fit to constitute a Interim Board of Trustees comprising of two undisputed permanent or Life Time Trustees, namely, appellant No.2 Mrs.Charu Mehta, respondent No.2 Mrs.Rekha H. Sheth and respondent No.1 Justice J.N.Patel (Retired) as Chairman of the Interim Board of Trustees. It was specifically directed by the said order that Justice J.N.Patel (Retired) respondent No.1 herein will have the power to convene a meeting of the Board of Trustees as and when it was required to be held for transacting any business including the passing of budgets. The Management of the Leelavati Kirtilal Mehta Hospital and the staff of the Trust were also directed to co-operate and assist him in the work of the Trust in all respects.

9] This Interim Board of Trustees consisting of Justice

J.N.Patel (Retired) and the two permanent Trustees, as referred above continued, till 12th April, 2016, when the matter was moved before the Apex Court again in the same Special Leave Petition No.3772 of 2014 and it was pointed out that status of another permanent Trustee namely, Kishor Mehta, the appellant No.1 herein, has now been ascertained by the statutory authority, namely, Assistant Charity Commissioner. In view thereof, the Apex Court found that the functioning of the Interim Board need not be continued any further. The Apex Court accordingly disbanded the Interim Board constituted by its order dated 21st May, 2014, leaving it open for the Trust and its Trustees to take care of its interest and operations.

10] While disbanding the Interim Board, the Apex Court appreciated the constructive services rendered by respondent No.1-Justice J.N.Patel (Retired). At the same time, the Apex Court also considered the effects of its earlier order dated 30th March, 2016, according to which the directions were given to extend the appointment of the Consultant/Medical Officers/ Doctors till 31st December, 2016. It was observed that such extension of the Consultant/Medical Officers/Doctors shall continue to remain till 31st December, 2016 and the trustees can take any decision for

their further continuation by passing appropriate orders, which will come into effect only on and from 1st January, 2017.

11] The real crux of the present dispute between the parties started thereafter.

12] In view of the disbandment of the Interim Board / Board of Trustees, respondent No.1-Justice J.N.Patel (Retired) issued a notice dated 28th April, 2016, calling a meeting of the Trustees on 30th April, 2016, for formal handing over of the charge. The copy of the notice of the said meeting is produced at page No.756 of this appeal. The specific agenda laid down for the meeting was as follows:

- “i) Review of the functioning of Interim Board and formal handing over of the charge to the Board of Trustees.*
- ii) Any other matter with permission of the Chair.”*

13] Appellants urged respondent No.1 not to proceed with such an illegal and unwarranted meeting. Appellants also informed respondent No.1 that they had preferred a clarification/direction by moving Interim Application No.32 of 2016 before the Hon'ble Supreme Court and it was listed on 5th May, 2016, and thus the matter was subjudice before the Apex

Court. However, respondent No.1 chose to proceed to hold the meeting dated 30th April, 2016 as convened. In the said meeting, in addition to passing the Resolution of formal handing over of the charge by the Interim Board of Trustees to the other remaining Trustees and after taking the review of the functioning of the Interim Board, some more resolutions came to be passed pertaining to the affairs of the Trust by the remaining Trustees. The appellants herein are aggrieved by the passing of those resolutions.

14] According to the appellants, when by order dated 12th April, 2016 the Interim Board of Trustees was disbanded by the order of the Apex Court itself, there was in the first place, no occasion for respondent No.1 herein, to convene the meeting for the purpose of formal handing over of the charge. Moreover after disbandment of Interim Board respondent No.1 was not authorised to hold the meeting. Hence any decisions taken by resolutions passed there in are patently illegal and void *ab-initio*. Secondly, assuming that it was necessary for Respondent No.1 to hand over formal of the charge of the Trust to the other Trustees, it was totally illegal and inappropriate on his part to hand over the formal charge of the Trust to only some of the Trustees and

not to other Trustees, when admittedly in respect of those Trustees "Change Report" was pending for adjudication before the Assistant Charity Commissioner. Thirdly, it is submitted that, under the garb of calling the said meeting, only for the purpose of handing over the charge, some more resolutions were passed in the meeting, by those Trustees, when admittedly they have no right to do so. Especially, in the absence of appellants who are also permanent and Life Time Trustees. It is urged that the meeting dated 30th April, 2016, could have been at the most for formal handing over of the charge but not for passing of those resolutions.

15] With all these contentions and grievances appellant Nos.1 and 2 filed a suit before the Trial Court for declaration that all the business transacted in the said meeting is illegal and liable to be set aside.

16] Along with the suit, the appellants filed Notice of Motion seeking specific relief that pending the hearing and final disposal of the suit, to stay the effect, execution and implementation of the decisions taken in pursuance of the resolutions passed in the 44th Meeting of the Interim Board of the

Trustees held on 30th April, 2016.

17] This Notice of Motion came to be resisted by respondent Nos.2 and 3 herein raising contentions that there was nothing wrong in Interim Board headed by respondent No.1- Justice J.N.Patel (Retired) in formal handing over the charge of the Interim Board of Trustees to the remaining Trustees and that was the only resolution passed in his presence. So far as, the other resolutions are concerned, it is submitted that they are passed by the remaining Trustees and they were in the interests of the Trust for proper management of the Trust. The appellants have therefore no right at all to challenge those resolutions or to seek stay to the operation of those resolutions. If the stay is granted to execution of those resolutions, the affairs of the Trust will come to a stand-still.

18] The Trial Court, after hearing learned counsel for the parties, was pleased to hold that, as regards the resolution of Interim Board headed by respondent No.1 of handing over of the formal charge to the remaining Trustees, it was done in pursuance of the order passed by the Apex Court and hence, there was no question of granting stay to the operation of the

said resolution. Similarly, as regards the resolution extending the services of the Consultant/Medical Officers/Doctors till 31st December, 2016, as it was done in view of the order passed by the Apex Court in Special Leave Petition, Trial Court did not find any fault therein.

19] As to the remaining resolutions, the Trial Court held that those resolutions appear to be passed in the beneficial interest of the Trust and they are not at all injurious to the affairs of the Trust. Moreover, the Trial Court further held that though the appellants had the notice of the meeting, they chose to remain absent in that meeting. In such situation appellants could not raise any grievance about the passing of those resolutions. It was observed by the Trial Court that there is no question of the appellants suffering any irreparable loss because if such resolutions were not passed, the Trust would have faced difficulties in smooth conduct of its business. It was further observed by the Trial Court that by passing such resolutions the steps are taken to ensure that the functioning of the Trust would be run smoothly. Accordingly, the Trial Court dismissed the Notice of Motion.

20] This order of the Trial Court is challenged in these two Appeals. With the assistance of the learned counsel for the appellants and respondents, this Court has gone through the papers pertaining to the earlier litigation and various orders passed therein. It is pertinent to note that at each and every stage the litigation has reached upto the Supreme Court and the cause of the litigation is the disputes interse between the permanent Trustees. In this respect the Copy of Trust Deed dated 5th July, 1978, is relied upon to show that as per the Trust Deed, especially Clause 16 thereof, only 3 Trustees were appointed as a Permanent Trustees for the Life Time. They were, namely, the appellant No.1-Kishor Kirtilal Mehta, appellant No.2-Charu Kishor Mehta and respondent No.2-Rekha Haresh Sheth. As per clause 17 of the Trust, the permanent Trustees were to have power to appoint new or additional Trustee for the period of 5 years. As in respect of the appointment of certain Trustees who were appointed in due course of time, the disputes arose between the parties, the Change Reports were submitted to the Assistant Charity Commissioner and in the light of those Change Reports the matter went up to the Apex Court.

21] As stated above, by order of the Apex Court dated

21st May, 2014, the Interim Board of Trustees came to be constituted, comprising of two undisputed permanent Life Time Trustees namely appellant No.2 and respondent No.2 headed by respondent No.1-Justice J.N.Patel, former Judge of High Court Bombay. Interim Board continued to manage the affairs of the Trust till 12th April, 2016, when the Apex Court was pleased to pass order in Special Leave Petition No.3772 of 2014. The perusal of the said order makes it clear that though the Change Reports Nos. 1446, 403, 1467, 1564 and 1565 all of 2006 were yet pending, despite the direction for their expeditious disposal, as the status of the appellant No.1-Kishor Mehta was ascertained by the Assistant Charity Commissioner as the Trustee, the Apex Court thought it fit to disband the Interim Board as the function thereof need not be continued any further, leaving it open for the Trust and its Trustees to take care of its functions. The Apex Court order is very clear and it is to the effect that “With that view, we disband the Interim Board constituted by our order dated 21st May, 2014, leaving it open for the Trust and its Trustees to take care of its interest and operation.” In further paragraph, Apex Court has given directions relating to extension of the appointment of the Consultant/Medical Officers/Doctors till 31st December, 2016.

22] It is pertinent to note that after the receipt of the notice dated 28th April, 2016 of the meeting, the appellants herein approached the Apex Court in the same Special Leave Petition No.3772 of 2014 by preferring IA No.31 of 2016 and 32 of 2016. By IA No.31 of 2016 the appellants prayed, “to clarify specifically that the Interim Board will become functus officio and the charge be given to the 3 undisputed Trustees and the claimant Trustees/ other alleged Trustees can join the Board of Trustees, once adjudication of Change Reports was complete, subject to the outcome of the appeals with other direction to implement the order dated 12th April, 2016, by directing the 3 Trustees to conduct the day to day affairs of the Trust”. A prayer was also made to pass an interim order to restrain the Ex-Chairman (Justice J.N.Patel) from holding a meeting pursuant to the notice dated 28th April, 2016 and handing over of the charge to the alleged Trustees persons claiming to be Trustees, namely respondent No.2 to 10 therein.

23] The Apex Court while considering and deciding this IA No.31 of 2016, on 6th May, 2016, reproduced its earlier order dated 12th April, 2016, which was passed while disbanding the

Interim Board as follows;

“Inasmuch as the status of the petitioner has now been ascertained by the Statutory Authority namely, Assistant Charity Commissioner, we find that the function of the Interim Board need not be continued any further leaving it open for the Trust and its Trustees to take care of its functions. With that view, we disband the Interim Board constituted by our order dated 21st May, 2014 , leaving it open for the Trust and its Trustees to take care of its interests and operation.”

24] The Apex Court further observed that “Our order is in so many words clear and categoric and there is no reason for anyone to treat the disbandment to take place beyond 12th April, 2016. Therefore, we do not feel it necessary to pass any further clarification in these applications. However, whatever subsequent events that had taken place can always be challenged by the applicant or by anyone aggrieved by any such events in the matter known to law before the proper forum”. With these observations the applications were accordingly disposed of.

25] This order, as can be seen, was passed by the Apex Court after the meeting dated 30th April, 2016 had taken place. Hence, it was left open to the appellants or anyone aggrieved by the said meeting and resolutions passed therein, to take the

steps as may be known to the law before the proper forum. In the light of this order, the present suit and the Notice of Motion came to be filed, challenging the resolutions passed in the meeting dated 30th April, 2016.

26] At this stage a reference can also be made to the order passed by this Court on 8th August, 2016 in Appeal from Order (Stamp) No.20648 of 2016. In that appeal, the appellants herein had challenged the order dated 29th June, 2016, passed by the City Civil Court Dindoshi, Mumbai, by which the application for ad-interim relief filed by the appellants restraining respondents there, namely Mr.Ajaykumar Pande and others from entering upon the Trust premises on the ground that their services were illegally extended by resolution passed in the meeting dated 30th April, 2016, was rejected. In that Notice of Motion and Appeal also the similar argument was advanced to the effect that the appellant Nos.1 and 2 and respondent No.2 herein were the only permanent Trustees. They alone are entitled to take decisions as regards the services of defendant Nos.1 to 5 therein. Their services cannot be extended by the illegal resolution passed in the meeting dated 30th April, 2016.

27] The Trial Court had rejected the said Notice of Motion and while deciding the correctness of the said order, after hearing learned counsel for the parties, this Court relying upon the order passed by the Apex Court on 6th May, 2016 in IA No.31 of 2016 and 32 of 2016 and came to conclusion that the specific grievance raised by the appellants relating to appellant Nos.1 and 2 and respondent No.2-Ms.Rekha Sheth herein alone constitute the Board of Trustees and other persons who claim to be the Board of Trustees and in respect of whom the Change Reports are pending, being not accepted by the Apex Court, at this stage there was no merit in the contentions raised by the appellants. Hence, this Court thought it fit not to interfere in the discretion exercised by the Trial Court in rejecting the Notice of Motion and dismissed the said appeal.

28] It is in the backdrop of these facts and circumstances, this Court is called upon once again to consider the legality of the meeting dated 30th April, 2016 and the resolutions passed therein.

29] Now it is a matter of record that as per the notice issued on 28th April, 2016, the meeting was convened on 30th

April, 2016 and accordingly, the meeting took place. It may be true that as per the order of the Apex Court the Interim Board came to disbanded forthwith with effect from 12th April, 2016. However, the formality of handing over of formal charge to the Board of Trustees being found necessary, by respondent No.1, he called this meeting. The agenda of the meeting as stated in the notice, was only to review the functioning of the Interim Board and formal handing over of the Charge to the Board of Trustees. The minutes of the meeting produced on record also reveal that under the Chairmanship of respondent No.1-Justice J.N.Patel (Retired) that was the only resolution passed in the said meeting of taking review of the functioning of the Interim Board and formal handing over of the Charge to the Board of Trustees.

30] The real grievance of the appellants is to the effect that there was no such necessity of convening the meeting for formal handing over of the charge, once by the order of the Apex Court itself the Interim Board was disbanded. Secondly, it is contended that in the said meeting the charge was handed over to some of the Trustees only who were not in functioning as the only Interim Board of Trustees was functioning and it was disbanded by the order of the Apex Court. According to the

learned counsel for the appellants, the Interim Board of Trustees was only of respondent No.1-Justice J.N. Patel (Retired) and two other permanent Trustees. However, the notice of the meeting and the minutes of the meeting show the presence of several persons/trustees and those persons Trustees had taken the decision relating to the affairs of the Trust. It is submitted that if those Trustees were called for the meeting even though their Change Reports were pending for adjudication before the Assistant Charity Commissioner, the other Trustees who are the appellants in the Second Appeal, were also required to be called for the meeting, even if their Change Reports are also pending before the Assistant Charity Commissioner. It is submitted that they had not received the notice of meeting and hence, it was totally wrong on the part of the Interim Board headed by respondent No.1-Justice J.N.Patel (Retired) to call such a meeting and to hand over the charge to some of those Trustees only and those Trustees taking the decisions and passing the resolutions relating to the affairs of the Trust.

31] On the face of it, it is true that there may appear some substance in the grievance of the appellants to the effect that once the Interim Board came to be disbanded and as per the

specific order passed by the Apex Court on 6th May, 2016, there was no reason for anyone to treat the disbandment to take place beyond 12th April, 2016. There was no reason for Respondent No.1 to call any further meeting. Hence, in my considered opinion, there was nothing wrong in respondent No.1 considering that some formal handing over of the charge was necessary by the Interim Board. It appears, with that object and view only, this meeting dated 30th April, 2016 was convened. Except for the passing of the resolution relating to the review of functioning of the Interim Board and formal handing over of the charge, no other resolution seems to have been passed in the meeting under the Chairmanship of respondent No.1-Justice J.N.Patel (Retired). As regards the resolution relating to extension of the services of Consultant/Medical Officers/Doctors, as stated above, as per order of the Apex Court dated 12th April, 2016, their services were extended upto 31st December, 2016, it was done by passing a formal resolution to that effect.

32] As to whom Interim Board should have handed over the charge of the affairs of the Trust, as stated above, the appellants had, by preferring IA No.32 of 2016 and 31 of 2016 in Special Leave Petition No.3772 of 2014 specifically sought the

relief that in view of the order of the Apex Court dated 12th April, 2016, Interim Board has become functus officio. Hence, the charge be given to 3 undisputed Trustees and other claimed Trustees or alleged Trustees can join the Board of Trustees once adjudication of their Change Report was completed. This prayer was not specifically adhered to, in the sense that the application to the effect came to be disposed of, may be because already the meeting was held on 30th April, 2016 and the liberty was given to the appellants to challenge the subsequent events that had taken place in the manner known to the law, before the proper forum. However, the fact remains that no interim relief as such was granted to the appellants by the Apex Court either to restrain the Ex-Chairman from holding the meeting dated 30th April, 2016, nor restraining him from handing over the charge to the persons to whom he was handing over the charge.

33] In such a situation, now the question raised for consideration is whether there is any reason to stay the resolution passed in the said meeting of handing over the charge to the remaining Trustees by the Interim Board. Needless to state that as the handing over of the charge was in pursuance of the order passed by the Supreme Court, of disbanding the Interim

Board of Trustees, to stay to that resolution cannot be granted. It need not be stated that constitution of the Interim Board of Trustees under the Chairmanship of respondent No.1 was merely an interim arrangement, as the word "Interim Board" itself suggests. This Interim Board must have taken the charge from the then Board of Trustees. On disbandment, the Interim Board was required to hand over the formal charge to the earlier Board of Trustees. Operation of such resolution therefore cannot be stayed.

34] As to the legality of the further resolutions which came to be passed by the existing Board of Trustees and which are forming part of the minutes from page No.774 of the Paper-book. Those resolutions pertain to the extension of the appointment of the various personnel/consultants of the Trust/Hospital made by the Interim Board of Trustees, which I have already said were extended by the Apex Court, itself till 31st December, 2016. Hence, the operation of such resolution also cannot be stayed.

35] The next resolution pertains to continuation of signatories authorized by the said Interim Board to operate the various Bank Accounts of the Trust/Hospital. Now this resolution

was undisputably necessary for the smooth functioning of the Trust. One cannot say that on disbanding of Interim Board of Trustees, the affairs of the Trust/Hospital should immediately come to a stand still. Some interim arrangements were required to be made till new appointment of Trustees was made by the 3 permanent Trustees. The affairs of the Trust, which is also a well known Hospital in the city, needs to be run smoothly and that is why it was specifically stated in resolution No.4 that all Bank Accounts and Fixed Deposits of the Trust shall be operated by the Signatories who have been authorized in that behalf by the Interim Board of Trustees till further orders or till the directions of the Trust Board. It can not be said that passing of such a resolution is in any manner affecting the interest of the appellants.

36] Appellants are still at liberty to convene the fresh meeting and to take the appropriate decision with the consent of the often Trustees. It is pertinent to note that the notice of this meeting was also issued to the appellants, however the appellants chose not to remain present for the meeting. If, they had any grievance relating to passing of these resolutions which were only a consequential steps, in view of the formal handing

over of the charge by the Interim Board of Trustees, they should have remained present for this meeting, so that they could have raised objection to these resolutions.

37] Even otherwise also these resolutions being merely in the nature of interim of management. It cannot be said that the operation of these resolutions, if not stayed, will cause any irreparable loss or hardship to the appellants. The operation of these resolutions, on the contrary, if stayed, then it will come into the way of smooth functioning of the affairs of the Trust and the hospital. Therefore, looked at it from any angle, it cannot be said that the Trial Court has committed, any, much less grave error, in dismissing the Notice of Motion, thereby rejecting the interim relief to the appellants.

38] It is also pertinent to note that the relief which was claimed by the appellants was only to the extent of staying the resolutions passed in the said meeting by the Interim Board of Trustees. The only resolution passed by the Interim Board is of handing over of the charge and therefore, there is no question of staying the effect of that resolution when the Interim Board of Trustees is already disbanded by the Apex Court. As regards the remaining resolutions which pertain to ensuring the smooth

functioning of the Trust, the appellants cannot raise much grievance having regard to the nature of those resolutions, so as to stay the operation of those resolutions as it will have the effect of obstructing the smooth functioning of the Trust.

39] As a result of the above said discussion, I do not find that any ground is made out to interfere in the exercise of the discretion of the Trial Court. The Appeal from Order (Stamp) No.24200 of 2016, therefore, holds no merit, hence stands dismissed.

40] As regards the Appeal from Order No.24204 of 2016, preferred by the other Trustees, whose Change Reports are yet pending before the Assistant Charity Commissioner, they were not parties to the suit or to the Notice of Motion. Even if accepting that they are also aggrieved by the impugned order and hence can prefer the appeal, they have never challenged or taken part in the affairs of the Trust and in such a situation merely because they were not having the notice of meeting, as the resolutions passed in the said meeting are not in any way affecting their interest but are for smooth functioning of the Trust

of which they claimed to be the Trustees, their appeal also does not hold merit and hence, stands dismissed.

41] Both the appeals being dismissed, the Civil Applications no more survive and hence, disposed off.

(DR.SHALINI PHANSALKAR-JOSHI, J.)