

Sequeira

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

WRIT PETITION (St.) NO. 25605 OF 2016

MPIL Corporation Ltd.

.. Petitioner.

Vs.

Watumull Foundation (India) & ors.

.. Respondents

Mr.Raj Patel a/w Heena Shah i/b Sonal Doshi & Co., for the
Petitioner.

Ms.Harsha Shah a/w Ms.Aditi Bhat, for Respondents.

***CORAM : N.M.Jamdar, J.
Friday, 30 September 2016.***

P.C. :

Not on board. Taken on production board by way of praecipe.

2. The Petitioner has challenged the order passed by the learned City Civil Court Mumbai, dated 05 August 2016 framing an issue regarding maintainability of the suit in respect of the Section 50 and 51 of the Maharashtra Public Trusts Act, 1950 regarding leave of the Charity Commissioner.

3. The learned counsel for the Petitioner submitted that the ground is not taken in the pleadings by the Respondents and that there are various observations made by the learned Judge while framing the issue.

4. The fact that the Respondent No.1 is a public trust is not denied. Considering the status of public trusts and that the trustees are entrusted to look after the properties of the public charitable trust, the scheme of Maharashtra Public Trust Act has been envisaged. Therefore, even though there may not be a specific application on behalf of a party, it is not permissible for the Court to frame an issue regarding permission of Charity Commissioner. As far as the observations made by the learned Civil Judge are concerned, they are prima facie. The issue so framed will no doubt be decided by the learned City Civil Court on its own merits. It is clarified that all contentions of the parties on the issue so framed are expressly kept open.

5. The Writ Petition is rejected.

(N.M.Jamdar, J.)