

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.11505 OF 2014
ALONGWITH
CIVIL APPLICATION NO.3306 OF 2015**

Ekveera Davsthan Trust	...	Petitioner
Versus		
Shri Mahadu Bahiru Deshmukh And Others.	...	Respondents

Mr. A. M. Khandeparkar i/b M/s. Tamhane & Co., for the Petitioner.
Mrs. Vaishali Nimbalkar, AGP for Respondent Nos. 9 and 10.

CORAM : R.M. BORDE, J.

DATE : 21 SEPTEMBER, 2016

P.C. :

. This Petition can be disposed of by issuing certain directions in terms of the order passed 24 December 2014. It is informed that all the Respondents are served, however, none appears for Respondent Nos. 1 to 8. By virtue of the directions during pendency of the Petition, various change reports proceedings pending before the Deputy Charity Commissioner, are directed to be disposed of within time frame stipulated under such orders.

2 Learned Counsel appearing for the Petitioner informs that in respect of the donation box, there is some controversy. On consideration of the application tendered by the Petitioner, the Deputy Charity Commissioner did not grant permission for opening of the donation box and rejected the same. The Petitioner-trust is objecting to said order in this Petition. This

Court by order dated 24 December 2014, noting the fact that the donation box has been overflowing and that the trust was suffering economic loss, directed to make certain interim arrangement. In para-5 of the said order, the Court has directed as below :-

“5. In my view, the request of the Petitioner is justified and deserves acceptance at this stage. A perusal of the photographs clearly indicates that the donation box is full and is required to be made empty. By way of ad-interim order, I pass the following order :-

a) Learned Registrar of this Court is directed to appoint an officer of this Court for the purpose of opening the donation box in the presence of any two trustees after giving a notice to them and after counting the accumulated amount, he will deposit the said amount in the Fixed Deposit of any of the nationalized bank disclosed in paragraph 12 of the petition initially for a period of one year. After emptying the box, the box shall be re-locked immediately.

b) It is made clear that all the expenses and fees of the learned Officer to be deputed by the learned Registrar shall be borne by the petitioner.

c) Learned Registrar is directed to act on the authenticated copy of this order.

d) Place the matter on board 'for admission' on 12th January 2015.”

3 The learned Counsel appearing for the Petitioner inform that in pursuance of the directions issued by the learned Single Judge, the donation box was opened in presence of officers of this Court and the amount drawn from the donation box has been deposited in fixed deposit in the Nationalized Bank in the name of the trust. It is informed that during the intervening period, after opening of the donation box in 2014,

the situation has arisen to re-issue directions to open the donation box which is almost full and overflowing. It is also informed that the change report proceedings which are directed to be disposed of by the Deputy Charity Commissioner and it may take further time. In these circumstances, it is requested to issue directions in respect of opening of the donation box and deposit of the amounts in the bank.

4 Considering the request, I issue the following directions :-

i) The Deputy Charity Commissioner, Pune shall appoint Officer for the purpose of opening the donation box, who shall open the box in the presence of two trustees after giving a notice to them and after counting the accumulated amount drawn from cash box, shall deposit the said amount in the Fixed Deposit in the Nationalized Bank i.e. Bank Of Maharashtra, Karla Branch, Pune, initially for a period of one year in the name of the trust. After emptying the box, the same shall be relocked and seal shall be affixed thereon immediately;

ii) This exercise of opening of the donation box and deposing the amounts in the Fixed Deposit of Nationalized Bank by observing the directions issued in above referred clause-(i), shall be undertaken after every six months until the disposal of change reports;

iii) It is made clear that fees and expenses of the Officer appointed from the Office of the Deputy Charity Commissioner, Pune shall be borne by the Petitioner;

iv) It would be open for the Officer from the Office of the Deputy Charity Commissioner, Pune to collect the keys of the donation box which are in the custody of learned Registrar (Judicial-I) of this Court. After completing the exercise of opening of the donation box and depositing the amounts in the Nationalized Bank, the donation box shall be relocked and seal shall be put thereon and thereafter the Officer from the Office of Deputy Charity Commissioner, Pune shall deposit keys with Deputy Charity Commissioner. The Officer appointed to open donation box, while doing the exercise of opening the box and computing the cash, shall cause videography of said exercise and keep the original CD in custody of Deputy Charity Commissioner;

v) It would be appropriate for the Deputy Charity Commissioner to issue appropriate directions in respect of the amount deposited in the Fixed Deposit in pursuance of the instant order, while disposing of the Change Reports.

5 With the directions above, the Petition stands disposed.

6 Pending Civil Application No.3306 of 2015 does not survive, stands dismissed.

(R.M. BORDE, J.)