

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

CIVIL REVN. APPLICATION NO. 99 OF 2016

1. Mr.Gladwin Winson,
Hebron Bhavan, 1st floor, Kinara Colony,
Kalewadi, Pimpri, Pune.

2. The Indian Pentecostal Church of God,
Regd.Office: A/102, National Palace, Takka,
Panvel, New Mumbai.

3. Pastor K.A. Mathew (State Secretary),
R/o: 504, B-2, Shanti Vihar,
Mira Road (E), Thane.

... Applicants

v/s

1. Hebron Bhavan,
Hebron Bhavan, Gr.^t floor, Kinara Colony,
Kalewadi, Pimpri, Pune; & ors.

... Respondents

Mr.Rahul Kadam for the applicants.

Ms.Manjiri Parasnis for the respondents.

Coram: N.M. Jamdar, J.

Dated: 23 September 2016

ORAL ORDER:

By this civil revision application, the Applicants challenge the order passed by the learned Civil Judge, Junior Division, Pimpri,

Pune, on preliminary issue as to whether the suit is maintainable. The suit is filed by the Respondent Trust with prayers that the Applicants should hand over the suit premises and to restrain Defendant Nos.2 and 3 from transferring any employee in place of Defendant No.1.

2 Learned counsel for the Applicants submitted that the permission of the Charity Commissioner is required under Section 50 of the Maharashtra Public Trusts Act and the suit is not maintainable under the provisions of the Act. As far as the prayer of possession of the suit premises is concerned, the learned Civil Judge, relying on the decisions of this Court has rightly concluded that, for the grant of this prayer permission of the Charity Commissioner is not required. As far as the arguments of the learned counsel for the Applicants that if the plaint is read in its entirety what is ultimately sought is, modification of the scheme, is not the ground taken in the application taking objection to the jurisdiction. However, since the argument is advanced regarding jurisdiction of the Court, in case during the course of the trial the learned Civil Judge comes to the conclusion that the grant of relief in the suit will entail the modification of the scheme, it is no doubt open to the learned Civil Judge to take a view regarding the bar of the provisions of Maharashtra Public Trusts Act, after hearing the parties. It is clarified that this view is taken by bare perusal of the plaint which shows that simplicitor possession has been sought from Applicant No.1 claiming that he was an employee of the Respondent Trust and who has overstayed in the premises after his

removal. For this eventuality, the position is covered by this Court in the case of *Sainath Mandir Trust v/s Vijaya & ors.*¹. However, as stated above, in case the learned Civil Judge, during the trial finds that the suit is not simplicitor for possession, of an employee who has overstayed but entails adjudication of rights of the Applicant No.2 Trust and the Applicant No.1 Trust, in respect of any scheme as stated above, it will be open to the learned Civil Judge to take the issue as regard the bar of Section 50 of the Maharashtra Public Trusts Act and the contention of the Applicants in that regard are not closed.

3 The civil revision application is disposed of accordingly.

(N. M. Jamdar, J.)

1 AIR 2011 SC 389