

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5195 OF 2014

(KAMLESH GANGARAM KANOJE...VS..BABURAO JIVLANG WAHANE & ANR.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : AUGUST 04, 2016.

Heard Shri R.L. Khapre, advocate for the petitioner and Shr K.R. Lule, A.G.P. for the respondent No.2. None appears for the respondent No.1, though served.

The order passed by the Assistant Charity Commissioner permitting the respondent No.1 to participate in the proceedings is challenged. The contention of the petitioner is that the Assistant Charity Commissioner has committed an error in allowing the application filed by the respondent No.1 seeking permission to participate in the proceedings, after eighteen years.

After examining the documents placed on the record of the petition, I find that various proceedings in respect of the public trust in question had been going on since last two decades and the respondent No.1 had been party to those proceedings. In these facts, the entitlement of the respondent No.1 to participate in the proceedings cannot be disputed in view of the provisions of Section 73-A of the Maharashtra Public Trusts Act, 1950. This shall not be misconstrued to mean that the claim made by the respondent No.1 about his status / position in the public trust is adjudicated upon.

The submission made on behalf of the petitioner that the objection filed by the respondent No.1 is filed after 18 years cannot be considered as the proceedings are still pending and the respondent No.1 has given explanation why the application seeking permission to participate in the proceedings is filed after about 18 years.

In view of the above facts, I am not inclined to interfere with the impugned order.

At this stage, Shri R.L.Khapre, learned advocate states that the petitioner had closed his evidence and filed pursis to that effect, however, now, if the respondent No.1 is permitted to file objection and is allowed to cross-examine the witness of the petitioner, the petitioner may be required to lead further evidence.

The request made on behalf of the petitioner *prima-facie* appears to be reasonable and the learned Assistant Charity Commissioner shall consider it, if made before him.

As the proceedings are pending since long, the learned Assistant Charity Commissioner shall dispose the proceedings till 16th January, 2017.

The petition is **disposed** in the above terms. The parties to bear their own costs.

JUDGE

CERTIFICATE

I certify that this order uploaded is a true and correct copy of original signed order.

Uploaded by : R.B. Raut, PS

Uploaded on : 06/08/2016.