

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9023 OF 2015

1. Mohd.Sharif Shaikh Yasin Siddique,
Age-Major, Occu-Business,
2. Shaikh Mohd.Abdul Shakur,
Age-Major, Occu-Business,
3. Haji Rizwan Abdul Khalik,
Age-Major, Occu-Business,
4. Hafiz Abdul Haq Abdul Raheman,
Age-Major, Occu-Business,
5. Shaikh Hussain Shaikh Ahmed,
Age-Major, Occu-Business,
6. Imran Ahmed Mohd.Yunus Azmi,
Age-Major, Occu-Business,
7. Sayeed Ahmed Nabi Shaikh,
Age-Major, Occu-Business,
8. Irfanoddin Kabiroadin Shaikh,
Age-Major, Occu-Business,
9. Ainoddin Shamsuddin Shaikh,
Age-Major, Occu-Business,
10. Sabir Ahmed Shaikh,
Age-Major, Occu-Business,
11. Hussainoddin Shamsuddin Shaikh,
Age-Major, Occu-Business,

All R/o Dhule, Taluka
and District Dhule.

– PETITIONERS

VERSUS

Muktar Ahmed Noor Nabi,
 Age-Major, Occu-Business,
 R/o Tasha Galli, Sultania Chowk,
 Dhule, Taluka and District Dhule

– RESPONDENT

WITH
 WRIT PETITION NO.9030 OF 2015

1. Mohd.Sharif Shaikh Yasin Sidique,
 Age-Major, Occu-Business,
2. Shaikh Mohd.Abdul Shakur,
 Age-Major, Occu-Business,
3. Haji Rizwan Abdul Khalik,
 Age-Major, Occu-Business,
4. Hafiz Abdul Haq Abdul Raheman,
 Age-Major, Occu-Business,
5. Shaikh Hussain Shaikh Ahmed,
 Age-Major, Occu-Business,
6. Imran Ahmed Mohd.Yunus Azmi,
 Age-Major, Occu-Business,
7. Sayeed Ahmed Nabi Shaikh,
 Age-Major, Occu-Business,
8. Irfanoddin Kabiroduddin Shaikh,
 Age-Major, Occu-Business,
9. Ainoddin Shamsuddin Shaikh,
 Age-Major, Occu-Business,
10. Sabir Ahmed Shaikh,
 Age-Major, Occu-Business,
11. Hussainoddin Shamsuddin Shaikh,
 Age-Major, Occu-Business,

All R/o Dhule, Taluka
and District Dhule.

– PETITIONERS

VERSUS

Muktar Ahmed Noor Nabi,
Age-Major, Occu-Business,
R/o Tasha Galli, Sultania Chowk,
Dhule, Taluka and District Dhule

– RESPONDENT

WITH
WRIT PETITION NO.9049 OF 2015

1. Mohd.Sharif Shaikh Yasin Sidique,
Age-Major, Occu-Business,
2. Shaikh Mohd.Abdul Shakur,
Age-Major, Occu-Business,
3. Haji Rizwan Abdul Khalik,
Age-Major, Occu-Business,
4. Hafiz Abdul Haq Abdul Raheman,
Age-Major, Occu-Business,
5. Shaikh Hussain Shaikh Ahmed,
Age-Major, Occu-Business,
6. Imran Ahmed Mohd.Yunus Azmi,
Age-Major, Occu-Business,
7. Sayeed Ahmed Nabi Shaikh,
Age-Major, Occu-Business,
8. Irfanoddin Kabiroadin Shaikh,
Age-Major, Occu-Business,
9. Ainoddin Shamsuddin Shaikh,
Age-Major, Occu-Business,
10. Sabir Ahmed Shaikh,
Age-Major, Occu-Business,

11. Hussainoddin Shamsuddin Shaikh,
Age-Major, Occu-Business,

All R/o Dhule, Taluka
and District Dhule.

– PETITIONERS

VERSUS

Muktar Ahmed Noor Nabi,
Age-Major, Occu-Business,
R/o Tasha Galli, Sultania Chowk,
Dhule, Taluka and District Dhule

– RESPONDENT

Mr.S.S.Jadhavar, Advocate for the petitioners.
Mr.P.B.Pawar, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 29/08/2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. All these petitioners are identically placed and all the litigating sides are identical. All of them are litigating with reference to 3 change reports bearing No.719/2004, 286/1998 and 253/2010, respectively. In all these matters, the petitioners are aggrieved by the identical orders dated 18/06/2015 by which petitioner Nos.1 to 3 namely Mohd.Sharif, Shaikh Mohd., and Haji Rizwan have been

permitted to intervene in the change report enquiry proceedings. Petitioner Nos.4 to 11 have not been permitted to intervene by the impugned orders on account of the following observation of the authority concerned :-

"Remaining applicants Nos.4 to 11 are not produced any documentary evidence showing that they are the persons having interest in the trust hence only applicant No.1 to 3 are allowed to join as party opponent to the proceeding."

3. Mr.Jadhavar, learned Advocate for the petitioners strenuously expresses an apprehension that by the above quoted observation, these 7 applicants will now be precluded from establishing their membership and their interest in the trust though they are the members of the trust and the record evidences this aspect.

4. I do not find that the apprehension of the petitioners is well placed. Petitioner Nos. 1 to 3 have been allowed to intervene and since they are leading a particular group, they would also be at liberty to prove the membership of their colleagues who are petitioner Nos. 4 to 11. So also, the above quoted observation of the authority below is due to there being no record before it. This impression is not a final conclusion of the authority below. The 3 applicants, who are

permitted to intervene, can lead oral and documentary evidence and prove the membership of the whole group of 11 persons. The authority below would naturally consider the entire oral and documentary evidence while deciding the change reports.

5. With the above observations, these 3 petitions are disposed of. Needless to state, the Authority below would consider the oral and documentary evidence before it while deciding the fate of the change reports.

6. At the request of the learned Advocates, the authority below may endeavour to decide the change reports of 1998 and 2004 expeditiously and preferably within a period of 6 (six) months.

(Ravindra V.Ghuge, J.)