

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1160 OF 2017**

**Neelkanteshwar Devasthan & Anr
Vs.**

..Petitioners

Shivaji Rangnath Gadve & Ors

..Respondents

**Mr. N. V. Vechalekar i/b Mr. N. V. Vechlekar & Co. for the Petitioner
Mr. S. L. Babar AGP for the Respondent No.8**

**CORAM : R. M. SAVANT, J.
DATE : 27th JANUARY, 2017**

P.C.

1 The Writ Jurisdiction of this court is invoked against the order dated 21-10-2016 passed by the Learned District Judge-1, Barshi, by which order, the Applications No.6 of 2007 and 1 of 2010 filed by the Petitioners came to be partly allowed and the order passed by the Assistant Charity Commissioner, Solapur, was modified to the extent mentioned in the operative part of the impugned order. The relevant extract of the impugned order in respect of which the Petitioners have a grievance are clauses (4) and (5) which are reproduced herein under for ready reference:

4. In para-11 of the scheme framed instead of five members from Pangri there must be six members from village pangri amongst 11 members and there must be five members instead of six members from villages Chincholi, Pandhari, Dembrewadi, Gholvewadi.

5. Necessary modification be made in para-12 of the scheme and there must be minimum three

office bearers from village Pangri instead of two office bearers.

2 It seems that an application was made by one Dilip Shinde being Application No.1 of 2010 who is a resident of Village Chincholi for framing a new scheme and appointing trustees from village Chincholi. Another application was made being Application No.24 of 2007 which was filed by the original trustees Manik Arole and Uttam Mhase for framing of the new scheme. It seems that one more application being inquiry application No.6 of 2007 was moved by one Shivaji Gadave under Section 15(1) of the Bombay Public Trust Act for framing of scheme and appointment of trustees. The trust in question is the Petitioner No.1 trust which is registered as a public trust under the Maharashtra Public Trust Act, 1950. The trust manages the temple of Lord Nilkantheshwar at Pangri. The cause for moving the said application was the impasse in the management of the trust in view of the fact that except one trustee all had expired. The said applications were considered together and the Learned Charity Commissioner by recording a finding that there is need of framing a new scheme allowed the applications and framed a scheme under which there were to be 11 trustees i.e. 6 from Chincholi and 5 from Pangri, number of officer bearers from the said villages was also stipulated.

3 The Petitioner aggrieved by the fact that the application filed by them was partly allowed by the Charity Commissioner by order dated 21-9-

2013, filed Civil Misc Applications No.57 of 2014 and 58 of 2014, in the District Court, Barshi. The Learned District Judge-1 has partly allowed the said applications and has slightly modified the scheme framed by the Assistant Charity Commissioner. The modification is in the respect of the trustees who are to be from Village Pangri. The Learned District Judge-1 has directed that 6 trustees would be from Pangri and 5 trustees would be from Village Chincholi and other villages. This according to the Learned District Judge-1 was necessitated in view of the fact that the temple was situated at Village Pangri, whereas the village Chincholi was at some distance away. The Learned District Judge-1 has commensurately directed that there would be three office bearers from village Pangri. The said modification to the scheme done by the Learned District Judge-1, is taken exception to by way of the above Petition.

4 The Learned Counsel appearing on behalf of the Petitioner would contend that the Petitioner have no objection to the scheme save and except the fact that in terms of the order passed by the Learned District Judge-1, 6 trustees are to be from village Pangri and only 5 trustees from Village Chincholi and other villages. It was the submission of the Learned Counsel for the Petitioner that village Chincholi in fact is the village where the temple is situated and not the village Pangri and therefore the scheme as propounded by the Learned Assistant Charity Commissioner was not required to be interfered with.

5 In so far as the said aspect is concerned, as indicated above, the cause for modification of the scheme as regards the number of trustees from village Pangri finds place in the impugned order passed by the Learned District Judge-1, wherein the Learned District Judge-1, has observed that the temple is situated in village Pangri whereas the village Chincholi is some distance away. The said fact as indicated above has been disputed by the Learned Counsel for the Petitioner Mr. Vechalekar. In my view, since the Learned District Judge -1 has recorded a finding which can be said to be on the basis of the contentions which were raised before him, as also having regard to the fact that the Learned District Judge-1, is sitting at Barshi which is a Taluka place in which Taluka both the villages are admittedly located, it would therefore have to be presumed that the Learned Judge has gone into the aspect as to in which village the temple is located and the proximity of the said two villages to the said temple. Hence it is not possible to accept the contention urged on behalf of the Petitioner by the Learned Counsel Mr. Vechalekar.

6 In that view of the matter, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]