

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 6076 OF 2016

Rajendra Babanrao Thorat & Ors. ... Petitioners
Vs.
ShreeH.B.P. Khanduji Baba Maharaj
devasthan Trust & Ors. ... Respondents

Mr. Drupad S. Patil, Advocate for the petitioners.
Ms. Manjiri S. Parasnis, Advocate for respondent no. 1.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **20th June, 2017.**

P.C.:

Rule. Rule made returnable forthwith. By consent, the petitioner is heard finally and decided at the stage of admission.

2. This Writ Petition is directed against the order dated 18th March, 2016 passed by 3rd Joint Civil Judge Senior Division, Pune thereby rejecting the application made under Order 1 Rule 10 of Code of Civil Procedure impleading them as party in the proceedings, i.e., Miscellaneous Application No. 39 of 2014 filed under Bombay Public Trusts Act. The original applicant/respondent no. 1 is a trust, who has filed the Application before the learned Civil Judge Senior Division for appointment of trustees. In the said

Application, the present petitioner moved an application that they are interested in the object of the trust and they participated in the worship and festival of the deity of the trust. It was also submitted that advertisement for calling the names of new trustees was published by the trust on 7th October, 2013 and the petitioners have filed the Application on 13th October, 2013 and they have received the acknowledgement on 14th October, 2013. The trust has opposed the Applications of these 7 persons and supported the order of the trial Court.

3. After hearing both the parties at length and after going through the scheme of the trust especially paragraphs 4, 5 and 6, where the procedure is laid down in respect of appointment of trustees by the Court, it appears that the Court has factually went wrong in stating that these 7 persons did not file application and did not produce the acknowledgement, as such applications along with acknowledgements were placed on record.

4. The learned counsel for respondent no.1-Trust, upon instructions, submitted that the respondents have no objection for allowing the petitioners to intervene in Misc. Application No. 39 of

2014. However, all the issues in respect of receiving petitioners' applications after the advertisement/ notice and acknowledgement of the Trust and the issue of interpretation of paragraph nos. 4,5 and 6 of the Scheme are to be kept open.

5. This submission is accepted. Rule made absolute in terms of prayer clause (a). The petitioners herein are impleaded as party respondents in Misc. Application No. 39 of 2014.

6. All issues, as stated above, are kept open.

(MRS.MRIDULA BHATKAR, J.)