

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

CIVIL REVISION APPLICATION NO. 364 OF 2017

Shri Swami Samarth Satsang Mandal
Through its Managing Committee Member
Shri. Vighnesh Babasaheb Dandawate ...Applicant

Versus

M/s. Backau Wolf Sahakari Gruharachana
Sanstha, Through Chairman
Mahadev Ramchandra Watharkar ...Respondent

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Mr.Siddharth R. Ronghe for the Applicant.
Mr.Ojas Deolankar for Respondent Nos. 1 and 2.

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CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JULY 17, 2017

P.C. :

1. Not on board. Upon mentioning, taken on board.
2. This Civil Revision Application is directed against the two orders i.e. the order dated 21.04.2016 passed by the learned Civil Judge, Junior Division, Pimpri, Pune and the order dated 17.03.2017 passed by the learned 3rd Jt. Civil Judge, Junior Division, Pimpri in Regular Civil Suit No. 142 of 2015.

3. The applicant/defendant is a trust and the respondent/ plaintiff is a society. The plaintiff had filed a Suit simpliciter for seeking injunction against the defendant trust i.e. agent, members or volunteers of the trust were to be restrained from entering and using the suit property or any part of the suit property and also prayed for mandatory injunction that the defendant trust be directed to remove belongings, assets, fixtures from the suit property. In the said Suit, the applicant/defendant moved an application dated 02.11.2015 for framing the preliminary issue on the point of jurisdiction of the Civil Court, as the Suit is barred under Sections 50 and 51 of the Maharashtra Public Trust Act, 1950. It is submitted that accordingly the preliminary issue regarding the jurisdiction of the Civil Court under Section 9A of the Code of Civil Procedure was framed and it was answered in affirmative holding that the Civil Court has jurisdiction to try and entertain the Suit. The said application was rejected by the learned Judge, vide order dated 21.04.2016. Thereafter, the applicant/defendant moved the application below Exhibit 34 under Order VII Rule 11 of the Code of Civil Procedure on the ground that the Suit is not maintainable as the plaintiff is trying to interfere in the administration of the defendant trust and therefore, the Suit is to be rejected. The said application was rejected by the learned Judge, vide order dated 17.03.2017. Hence, this Civil Revision Application.

4. The learned counsel for the applicant has submitted that the activities of the trust are enumerated under Section 50 of the Maharashtra Public Trust Act. The defendant trust is a registered trust and by filing such Suit for permanent and mandatory injunction, the plaintiff society is directly interfering in the administration of the trust. He has further submitted that if at all there is interference in the administration of the trust, then it is obligatory on the part of the plaintiff to seek permission of the Charity Commissioner as per Section 51 of the Maharashtra Public Trust Act. The said Suit is filed without obtaining requisite permission of the Charity Commissioner and therefore, the Suit is not maintainable. The orders dated 21.04.2016 and 17.03.2017 passed by the trial Courts are illegal and are to be set aside.

5. The learned counsel for the respondent opposed this application. He has supported both the orders passed by the trial Court.

6. Perused plaint and the prayer therein. The Suit filed by the society i.e. plaintiff against the defendant trust from entering and using its suit property, which cannot be said that is an interference in the administration of the trust. The suit premise is a part of the plaintiff society. The Suit is for permanent and mandatory injunction and the

subject matter is very much triable by the Civil Court. The Suit is not barred by the provisions of Sections 50 and 51 of the Maharashtra Public Trust Act, as the Civil Court has jurisdiction to try and entertain this Suit. No interference is required in both the orders.

7. In view of the above, Civil Revision Application is disposed of.

(MRIDULA BHATKAR, J.)