

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5633 OF 1997

Shree Balaji Mandir Trust & Ors.] Petitioners

Vs.

Ramdayal Guru Premdas Bairagi & Ors.] Respondents

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None for the petitioner.

Ms. K.P. Kulkarni, A.G.P for State-respondents No.1 to 3.

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CORAM : R.G. KETKAR, J.

DATE : 24th MAY, 2017.

P.C.

Heard Ms. Kulkarni, learned A.G.P for respondents
No.1 to 3.

2. By this Petition under Article 226 and 227 of the Constitution of India, Petitioners have challenged the judgment and order dated 16th September, 1997 passed by respondent No.2, the Assistant Charity Commissioner, Pune Division, Pune in Misc

Application No. 938 of 1997. By that order, respondent No.2 issued injunction restraining the Petitioners from operating the Bank account of Petitioner No.1-Shree Balaji Mandir Trust [for short 'Trust'] from withdrawing any amount without prior permission of the Assistant Charity Commissioner. Respondent No.2 also issued other directions for working of the Trust. The relevant and material facts giving rise to filing of the present Petition, briefly states, are as under.

3. Petitioner No.1 is a Public Trust duly registered under the provisions of The Maharashtra Public Trusts Act [for short 'Act'] bearing Registration No. A-595 (Pune). Petitioners No.1 (a) to 1(f) claim to be the trustees of Petitioner No.1-Trust. It appears that Misc. Application No. 88 of 1992 was filed before the District Judge, Pune for framing of the scheme. Respondent No.1 filed application Exhibit 47 on 1st February, 1996 for joining him as party respondent in the said proceedings. By order dated 22nd April, 1996, learned District Judge rejected the application by holding that respondent No.1 is not a “person having interest” in the Trust as contemplated by Section 2 (10) of the Act. Respondent No.1 did not challenge the said order and thus had attained finality.

4. It is the case of the Petitioners that respondent No.1 filed Misc. Application No. 938 of 1997 before the Charity Commissioner, Pune Division, Pune making several false and frivolous allegations of misappropriation against the Petitioners and prayed for directions of freezing and seizing accounts of Petitioner No.1-Trust. Replies were filed by the parties. On the basis of the report of Inspector dated 30th December, 1996, respondent No.2 passed impugned order restraining the Petitioners from operating Bank accounts of Petitioner No.1-Trust; from withdrawing any amount without prior permission of the Assistant Charity Commissioner. It is against this order, present Petition is instituted. The Petition was heard for admission on 24th November, 1997. After hearing both the sides, Petition was admitted on 24th November, 1997 by issuing Rule. Rule on interim order was made returnable in two weeks. The matter was thereafter heard for interim relief on 17th March, 1998. By way of interim relief, the Petitioners prayed for stay of operation, execution, implementation and enforcement of impugned order dated 16th September, 1997. After hearing both the sides, interim relief was refused and hearing of the Writ Petition was expedited.

5. Having regard to passage of time as also considering the fact that no stay to the impugned order was operating during pendency of this Petition, no relief can be granted to the Petitioners, reserving liberty to the Petitioners to approach the Authorities under the Act for appropriate direction. Subject to this, Petition fails and the same is dismissed. Rule is discharged. In the circumstances of the case, there shall be no order as to costs. As the Petitioners and their Advocate are absent, liberty is reserved to them to file Review Petition, if so advised.

[R.G. KETKAR, J.]