

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

WRIT PETITION NO. 7911 OF 2017

Shri Narendra Namdev Mulik & Ors. ... Petitioners
V/s.
Shri Ananda Demji Chougale & Ors. ... Respondents

Mr.Prashant Bhavke for the Petitioners.
Mr. S.S. Patwardhan for the Respondents.

CORAM : M.S. SONAK, J.

DATE : 21st SEPTEMBER, 2017.

P.C. :

1 This Petition, is as frivolous as the application for stay dated 20.06.2017 made by the petitioners before the Joint Charity Commissioner seeking to stall the hearing of appeal before the Joint Charity Commissioner on merits.

2 The Assistant Charity Commissioner, by order dated 07.05.2016 has allowed the Change Report at the behest of the petitioner. Against the same, the respondents have instituted an appeal before the Joint Charity Commissioner. There was an ad-interim stay order granted by the Joint Charity Commissioner on 10.05.2016 and Mr. Bhavke admits that stay has been continued from time to time.

3 At one stage, the Joint Charity Commissioner took up the main Appeal itself for final hearing. The petitioners by application dated 20.06.2017 contended that hearing of the appeal on merits should be stayed until, the pending stay application in the Appeal is disposed of.

4 The Joint Charity Commissioner, has made the following impugned order :-

“ Appellant strongly objected the present application. Today Appellant has argued the said appeal. Stay application is argued along with the appeal just to save the time. When appeal as a whole is heard and argued the question of moving application does not arises. The Application itself shows the conduct of Respondents. Respondents has tried to delay the hearing and moved three adjournment application on various counts and which shows the conduct which needs to strictly deprecated, hence it is rejected.”

5 There is absolutely no reason to disagree with the observations made by the Joint Charity Commissioner. The petitioners, who are really suffering a stay order should have themselves been interested in ensuring the expeditious disposal of the appeal. Instead, for reasons, which can only be described as frivolous, the petitioners insist upon adjudication on the stay application instead of proceeding with the Appeal itself, on merits. If, the Appeal is ultimately dismissed,

the stay application, will automatically, not survive and in any case, the ad-interim order granted earlier, will be rendered infructuous.

6 The Joint Charity Commissioner has rightly observed that arguments for confirmation of ad-interim relief and the arguments in support of the Appeal will be one and the same and some time will be saved if the entire Appeal is itself heard and disposed of. There is no reason to interfere with the view taken by the Joint Charity Commissioner.

7 On the basis of the application dated 20.06.2017 and, thereafter, the institution of the present Petition, the petitioners have unnecessarily delayed the proceedings before the Joint Charity Commissioner. Accordingly, this Petition is required to be dismissed with costs.

8 This Petition is dismissed with costs, quantified at Rs.5,000/-. Mr. Patwardhan states that the amount of costs be paid to the Kirtikar Law Library. Accordingly, the costs are directed to be paid to the Kirtikar Law Library within a period of four weeks from today.

(M.S. SONAK, J.)