

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

WRIT PETITION NO.11119 OF 2016

Rajendra Baban Jadhav and another

..Petitioners

Versus

Shri. Machindra Bira Gofane and others

..Respondents

Shri. Khateeb Vakeel i/by Shri. S. B. Trivedi for the Petitioners.

Shri. S. S. Aradhye for the Respondent No.1.

Shri. S. D. Rayrikar, AGP for the Respondent Nos.2 & 3.

CORAM : R. M. SAVANT, J.

DATE : 20th MARCH, 2017

PC.

1 The order dated 02.08.2016 passed by the Deputy Charity Commissioner, Solapur Region, Solapur rejecting the application for intervention filed by the Petitioner is taken exception to by way of the above Petition. The Petitioner had filed the said intervention application in change report proceedings being No.550 of 2008 filed by the Respondent No.1 herein i.e. Shri. Machindra Bira Gofane. The intervention application was filed by the Petitioner on the ground that the Petitioner is a life member of the Petitioner No.2 Trust and that he himself has filed change report bearing No.920 of 2010 on 21.11.2010 and that he is looking after the day to day affairs of the Trust as the President of the Trust in question. The Petitioner therefore claimed that he is an interested person within the meaning of Section 2(10) of the

Bombay Public Trusts Act, 1950. The Petitioner in support of his claim of membership relied upon receipts Exh Nos.63/2 and 63/3. The Respondent No.1 filed an application Exh.67 wherein he prayed that the Petitioner i.e. proposed intervenor may be directed to produce the original proceeding book showing his membership of the said Trust. The said application filed by the Respondent No.1 came to be allowed on 28.04.2016 however the Petitioner i.e. the intervenor has not complied with the order dated 28.04.2016.

2 The Petitioner/Intervenor thereafter relied upon the xerox copies of the alleged resolutions conferring membership on him. The Respondent No.1 thereafter filed Exh.92 for directing the Petitioner/Intervenor to file an affidavit stating how the xerox copies of the alleged resolutions conferring membership upon him came in his possession. The said application Exh.92 came to be allowed by order dated 23.06.2016. The said order has also not been complied with by the Petitioner. The Petitioner/proposed intervenor had filed application Exh.70 claiming that the original proceeding book is in the custody of the Learned Joint Charity Commissioner, Latur. It appears that in view of the said application the Deputy Charity Commissioner granted one months time to the Petitioner for producing the same however the Petitioner has not complied with the directions issued in the order passed on Exh.70. The

Deputy Charity Commissioner therefore observed that though it was the case of the Petitioner/Intervenor that all the records of the Trust are in his custody he has not produced the copy of the resolution showing that he is lifetime member of the Trust. The Deputy Charity Commissioner has observed that it is not enough to produce the receipts of subscription fees, without producing the resolutions passed by the executive committee or the general body of the Trust. The Deputy Charity Commissioner also observed that the intervenor has failed to prove as to how his presence was necessary for the proper adjudication of the change report proceedings being No.550 of 2008. In my view, having regard to the aforesaid conspectus of facts, the impugned order passed by the Deputy Charity Commissioner does not merit any interference at the hands of this Court under Article 227 of the Constitution of India. The Writ Petition is accordingly dismissed.

3 However, it is clarified that the change report being No.920 of 2010 filed by the Petitioner would be tried on its own merits and in accordance with law uninfluenced by the impugned order.

[R.M.SAVANT, J]