

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 80 OF 2016
IN
FIRST APPEAL NO. 2779 OF 2007

Vishwanath R. Gharat (dead)
through Lrs. & ors.

.. Applicants

vs.

Russi D. Nariman and ors.

.. Respondents

Ms Mugadha J. Patil for the Applicants.

Mr. A.B. Seth for Respondent Nos.1 to 3.

CORAM : M. S. SONAK, J.

DATE : 16 JANUARY 2017.

P.C. :-

1] Heard learned counsel for the parties.

2] The appeal in the present case has been instituted by Vishwanath R. Gharat in his capacity as a Chairman of the Trust. He has since been expired and by this civil application leave is applied for to bring on record the remaining Trustees of the Trust so that they can prosecute the appeal.

3] Mr. A.B. Seth, learned counsel for some of the respondents, submits that in terms of the order made by the District Judge, the villagers were required to be appointed as Trustees. On this basis, learned counsel submits that the present Trustees who are sought to be brought on record, cannot be permitted to permit on record and pursue the present appeal.

4] Ms Mugadha Patil, learned counsel for the applicants, however, places on record the order made by the Assistant Charity Commissioner, accepting the change report and consequently, accepting the applicants as Trustees of the Trust. Such order, it appears, was made on 30 December 2015. At the time when this civil application was taken out, such order was not available.

5] In view of such order, there can be no difficulty in allowing the civil application. This is particularly, because neither the respondents nor any of the villagers have challenged the order dated 30 December 2015 made by the Assistant Charity Commissioner. In any case, it cannot be said that the Trustees of the Trust, have no right to prosecute the appeal.

6] Accordingly, the civil application is allowed. The applicants are permitted to come on record in place of the deceased applicant/appellant and to prosecute the appeal.

7] Necessary amendment to be carried out within two weeks from today and the copy of the amended memo of appeal to be served upon the respondents.

8] The civil application is disposed of in the aforesaid terms.

(M. S. SONAK, J.)