

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10729 OF 2018

**MAHENDRAPURI GURU UJJAINPURI AND ANOTHER
VERSUS
SHIVRAM @ SHIVDAS BALKISAN AND OTHERS**

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Advocate for the Petitioners : Smt. A. S. Rasal

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 26th SEPTEMBER, 2018.

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PER COURT :

1. The petitioners are aggrieved by the order dated 08/03/2018, by which, the Adhoc District Judge-1, Sangamner has rejected M.A.No.38/2008.

2. The learned Advocate for the petitioners has strenuously criticized the impugned order. Contention is that as the petitioners desired to challenge the order of the Assistant Charity Commissioner dated 25/07/1994 and there was a delay, an application for condonation of delay bearing No.19/1996 was filed. The concerned Court has mechanically rejected the said application without considering the interest of the petitioner involved in the matter.

3. The learned Advocate for the petitioners has taken me through the documents placed on record. One order dated 30/12/2015 indicates that the applicant was directed to produce the Death Certificate of Munishwardas Guru Sitaramdas. The petitioner claims to be the person to whom the deceased Munishwardas had handed over the authority to look after the trust, which was registered in 1953 situated on the banks of the Pravara River, set up by the late Mahant Sitaram Das Jainarisinghdas. It is contended that the Chief Priest/custodian/Mahant is appointed by following the law of hereditary and after the death of the original Mahant, the petitioner has assumed his position as a Mahant.

4. Munishwardas passed away on 03/07/2014 and this petitioner moved an application in 2015. Contention is that the authority below should have passed an order either of abatement or of permitting the L.R. of Munishwardas. It appears that since the matter was posted for dismissal due to the absence of the applicant who claimed to be the successor of Munishwardas, this aspect was not considered by the

authority below.

5. I find from the record that two persons had approached the Assistant Charity Commissioner vide Application No.30/1990 with a constitution of a trust. The Assistant Charity Commissioner by order dated 25/07/1994 approved the constitution. Munishwardas desired to challenge the order of the Assistant Charity Commissioner. As there was a delay, an application for condonation No.19/1996 was filed. This application was subsequently transferred to the learned District Court at Sangamner and re-numbered as 96/2000. That application came to be dismissed for want of prosecution on 28/08/2000 after 12 years.

6. A further application M.A.No.38/2008 was filed for condonation of delay and for restoration of the condonation of delay application No.19/1996. This application was also casually prosecuted by Munishwardas and finally, when it was listed for dismissal on 12/01/2018, that the applicant appeared and pursued the said application.

7. M.A.No.19/1996, re-numbered as 96/2000, was dismissed for want of prosecution in 2008 after keeping it pending for 12 years. Thereafter, M.A.No.38/2008 was also pending for adjudication for another 10 years. Issue was only as regards whether, the constitution approved by the Assistant Charity Commissioner on 25/07/1994, can be said to be a justifiable order. The said constitution is in force for the last 24 years.

8. Considering the above, I do not find that the impugned order rejecting M.A.No.38/2008 could be termed as being perverse or erroneous. This petition being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-