

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 990 OF 2018

BABURAO KISHAN UDARBHARE AND ANOTHER
VERSUS
MAHANT SHRI SALKAR DIGAMBAR MAHANUBHAV AND OTHERS

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Advocate for Petitioners : Shri Bachate Pralhad D.
Advocate for Respondents 1 to 3 : Shri Kadam S.K.
AGP for Respondents 4 & 6 : Shri Badakh V.S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 30, 2018

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PER COURT :-

1. This matter was heard at length on 24.1.2018 and again today.

2. The petitioners are aggrieved by the impugned order dated 29.9.2017, by which, Transfer Application No. 114 of 2017, filed by the petitioners under Rule 36(iii) of the Maharashtra Public Trusts Rules, 1951, has been rejected.

3. Upon considering the extensive submissions of the learned Advocates for the petitioners and respondents 1 to 3 and the learned AGP on behalf of respondents 4 and 6, I find that the following factors are germane to the issue before me:-

(a) These parties were before this Court in First Appeal No. 27 of 1990 and the said proceedings were disposed off by recording the consent terms, which are part of the order dated 8.3.2010.

(b) The petitioners thereafter, sought a review of the earlier order and the review application was rejected.

(c) The petitioners approached the Honourable Apex Court and after the order of status quo was passed initially, the SLP was dismissed on 13.2.2013.

(d) The reporting trustee appeared on 20.1.2015 and led evidence.

(e) His cross-examination commenced on 7.3.2017.

(f) At that juncture, the petitioners claimed that the Assistant Charity Commissioner showed undue haste and the petitioners developed an apprehension that he would be deciding the proceedings in a particular manner.

4. I have considered the contentions putforth by the petitioner in the memo of the petition as well as those, which were canvassed before the Joint Charity Commissioner, while seeking transfer of proceedings. I do not find such circumstances, wherein, the contention of the petitioners that the Assistant Charity

Commissioner is predetermined to conclude in a particular manner, could be sustained. The petitioners claim that they need a free and fair opportunity to lead evidence. I do not find that the Assistant Charity Commissioner has prevented the petitioners from leading evidence or has passed an order closing the evidence.

5. It needs to be kept in mind by the litigants as well as the lawyers that, for self serving purposes, an application for transfer from one Judicial Officer to another is not to be casually filed and allegations are not be casually levelled. So also, such applications are not to be entertained unless a strong issue is indicated, which may require transfer of the proceeding. Orders of transfer of proceedings invariably demoralize the Judicial Officer and it is noted in several cases that such applications are filed purely to indulge in forum shopping or exert pressure on the concerned Judicial Officer.

6. In the light of the above, on this occasion, the petitioners are cautioned that henceforth they should behave responsibly and shall not move such applications merely because of some interaction between the Bench and the Bar while conducting the proceedings. It is expected that wisdom would prevail upon these petitioners.

7. This petition being devoid of merits is, therefore, dismissed.

8. Considering the fact that the consent terms with regard to the affairs of the temple at issue have become a part of the order of this Court dated 8.3.2010 and the SLP against the same having been dismissed, I deem it appropriate to direct the Assistant Charity Commissioner to complete the proceedings in Enquiry No. 6 of 2010 as expeditiously as possible and preferably on/or before 13.4.2018. Adjournment sought on trivial and unreasonable grounds shall be rejected and if need be, costs may be imposed. If required, the Assistant Charity Commissioner may consider dealing with this matter on day to day basis.

(RAVINDRA V. GHUGE, J.)

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