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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1120 OF 2018

Rashid S. Oomer	...Petitioner
V/s.	
The Joint Charity Commissioner & Anr.	...Respondents

Mr.Cyrus Ardeshir with Mr.Sujit Lahoti and Mr.Nikhil Mishra for the Petitioner.

Mr.S.H. Kankal, A.G.P. for the State – Respondent No.1.

Mr.S.M. Gorwadkar, Senior Counsel i/b Mr.A. Tripathy for the Respondent No.2.

CORAM : R.D. DHANUKA, J.
DATE : 4TH APRIL, 2018.

P.C. :-

1. The matter was argued at great length by the learned counsel appearing for both the parties. By consent of parties, the following order is passed :-

a). The impugned order dated 5th May, 2017, passed by the learned Joint Charity Commissioner-I, Maharashtra State, Mumbai in appeal below Exhibit-70 in Application No.26 of 2012 filed by the respondent no.2 is set aside. The Application (Exhibit-70) is restored to file before the learned Joint Charity Commissioner-I, Maharashtra State, Mumbai for hearing and final disposal afresh and in

accordance with law.

b). The petitioner would be at liberty to file affidavit in reply to the said application in the said proceedings within three weeks from today and a copy thereof shall be served upon the respondent no.2 and other contesting respondents, if any, simultaneously.

c). Learned Joint Charity Commissioner-I, Maharashtra State, Mumbai shall consider the case of both sides in their respective pleadings as well as the oral submissions that would be advanced by the parties and shall pass a fresh order without being influenced by the observations made and the conclusion drawn in the order dated 5th May, 2017 and in accordance with law.

d). It is made clear that in view of the order dated 5th May, 2017 passed by the Joint Charity Commissioner-I, Maharashtra State, Mumbai having been set aside by consent of parties, the appointment of the petitioner as a trustee of Haji Ismail Haji Habib Charity Trust is restored. Both the parties are directed to remain present before the learned Joint Charity Commissioner-I, Maharashtra State, Mumbai on 8th May, 2018 at 11:00 a.m. If the date is not convenient to the learned Joint Charity Commissioner-I, Maharashtra State, Mumbai, a convenient date shall be communicated to both the parties in advance. The petitioner would be at liberty to remain present in person or through an advocate before

the learned Joint Charity Commissioner-I, Maharashtra State, Mumbai. The respondent no.2 also would be at liberty to remain present in person or through an advocate before the authority.

e). All the contentions of both the parties are kept open.

f). Learned Joint Charity Commissioner-I, Maharashtra State, Mumbai shall dispose of the application (Exhibit-70) within three months from the date of the first meeting. Both the parties shall co-operate with each other and also with the learned Joint Charity Commissioner-I, Maharashtra State, Mumbai in disposing of the application expeditiously and shall not ask for any unnecessary adjournment.

2. The writ petition is disposed of in aforesaid terms. No order as to costs. Parties as well as the authority to act upon the authenticated copy of this order.

(R.D. DHANUKA, J.)