

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Review Petition (St.) NO. 19402 OF 2017
IN
Writ Petition No.3858 of 2017

Narayan Chandrakant Choudhary ...Petitioner
Versus
Mr. Ramsurat Ramkhilavat Pande
And Ors. ...Respondents

....
Mr. M.R. Nair i/b. B.N.J. Pillai, Advocate for the Petitioner.
....

CORAM : R. G. KETKAR, J.

RESERVED ON : 15th FEBRUARY, 2018

PRONOUNCED ON : 26th FEBRUARY, 2018

P.C.

1. Heard Mr. M.R. Nair, learned Counsel for the petitioner, at length.
2. By this Petition under Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure, 1908 (for short, 'C.P.C.'), the petitioner is seeking review of the order dated 27.4.2017 passed by this Court in Writ Petition No.3858/2017. By that order the Petition, instituted by the petitioner herein against the judgment and order dated 24.11.2016 passed by the Jt. Charity Commissioner-I, Mumbai in Application No.9/2010, was dismissed.

3. In support of this Petition, Mr. Nair strenuously contended that there are several errors of law apparent on the face of record. He submitted that this Court failed to appreciate that the construction was not completed during the stipulated period. The respondents did not open bank account and also did not deposit the amount as ordered by the Charity Commissioner. Even the respondent did not obtain the permission of the Collector for carrying out construction. He, therefore, submitted that the order deserves to be reviewed as it suffers from several errors of law.

4. I have considered the submissions advanced by learned Counsel appearing for the petitioner. I have also perused the material on record. A perusal of the order under review shows that sanction was accorded under Section 36(1)(a) of the Maharashtra Public Trusts Act (for short, 'Act') on 7.1.2009. The petitioner as a trustee along with two other trustees Babulal Sarda and Mohan Bagade had instituted application No.3/2011 under Section 36(2) of the Act for revocation of the sanction granted on 7.1.2009. During pendency of those proceedings, the petitioner filed application dated 14.12.2011 at Exhibit-31 for withdrawal of the said proceedings. The Joint Charity Commissioner permitted the petitioner to withdraw the proceedings. After repeatedly asking the petitioner whether he really intends to

withdraw the application unconditionally, the petitioner confirmed that there is no suppression, concealment and/or played fraud upon any of the trustees and/or developer while obtaining permission from the Charity Commissioner.

5. It was also noted that in pursuance of the sanction order dated 7.1.2009, the construction was completed and the trust was given possession of the area as agreed between the parties. Not only that paragraph-10 of the development agreement dated 25.2.2009 shows that it is signed by the petitioner and two others and thus it is not open for the petitioners to challenge the development agreement.

6. In view thereof, I do not find any merit in the review petition. No ground for reviewing the order is made out. Consequently, Review Petition fails and the same is dismissed.

(R.G. Ketkar, J.)