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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL REVISION APPLICATION NO.425 OF 2017

Jayantbhai Jaishankar Jani	...	Applicant.
V/s.		
The Kanji Khetsey Charities		
Mumbai and ors	...	Respondents

Mr. Sugandh B. Deshmukh, for the Applicant.
Mr. Ameya Tamhane i/by Seema Sarnaik and Mr. Anil
Raikar, for the Respondent Nos 2 to 6.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 23rd APRIL, 2018.

P.C. :

- 1] Heard learned counsel for the applicant.
- 2] By this Revision Application filed under Section 115 of the Code of Civil Procedure, the applicant is challenging the order dated 18.04.2015, passed by 5th Joint Civil Judge Senior Division, Nashik, below application Exh.37 in Special Civil Suit No.449 of 2011.
- 3] The said application at Exh.37 was filed by the petitioner before the trial Court, for rejection of the plaint under Order VII Rule 11 C.P.C., on the ground that the requisite permission of Charity Commissioner, required under Section 50, 51 of the Bombay Public Trust Act, is not obtained before filing of the suit. The trial Court has

rejected the said application and hence the instant Revision Application.

4] Admittedly, the suit is filed by the respondent trust seeking possession of the property belonging to the trust from the present petitioner, on the ground that the said property was allotted to the petitioner as residential quarter during the course of his employment and after termination of the services of petitioner, the trust is entitled to recover possession of the said property.

5] As rightly submitted by learned counsel for respondent, prior sanction or permission of the Charity Commissioner is not required to such suit in view of the ratio laid down by this Court in the cases of i) *Amirchand Tulshiram Gupta and ors -vs- Vasant DhanajiPatil and ors [(1992 (2) Bom. C.R.22]* and ii) *Rajgopal Raghunathdas Somani -vs- Ramchandra Hajarimal Jhavar [(1967 (69) Bom. L.R. 472]*. In both these judgments, it has been held that for the suit filed by trust to recover property from trespasser or the person in possession, does not require prior permission or sanction of the Charity Commissioner. In view thereof, the trial Court was justified in rejecting this application filed by the petitioner.

6] The submission of learned counsel for the petitioner is that the trial Court has not given any reasons while rejecting the application, and therefore the order is liable to be set aside. However,

the perusal of the order passed by the trial Court reveals that the trial Court has observed in paragraph No.3 of its order that the question for consideration is whether the prior permission of the Charity Commissioner is necessary for filing of the suit under the provisions of Bombay Public Trust Act and then relying on the various judgments of this Court, held that no such permission is necessary, which may be necessary in ordinary suit for recovery of property. Accordingly, the trial Court has rejected the said application. I do not find that the order of the trial Court is therefore sans any reasons to interfere therein on this score also.

7] The Civil Revision Application, therefore, stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]