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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12418 OF 2017

Kishor Raval & Anr.	...Petitioners
V/s.	
The Joint Charity Commissioner & Ors.	...Respondents

Ms.Radhika Samant for the Petitioners.
Mr.S.D. Rayrikar, A.G.P. for the State – Respondent No.1.
Mr.S.R. Nargolkar for the Respondent Nos.2, 3, 4 and 5.

CORAM : R.D. DHANUKA, J.
DATE : 25TH JUNE, 2018.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 10th November, 2016, passed by the respondent no.1 thereby rejecting the application filed by the petitioners seeking review of the order dated 10th January, 2011 passed by the predecessor of the learned Charity Commissioner in Transfer Application No.36 of 2010 under Rule 36(4) of the Bombay Public Trust Rules, 1951. The petitioners are admittedly not the trustees of the respondent no.5. In the year 2011, the learned authority had permitted transfer of the office of the Trust from Pune to Mumbai on various grounds. The petitioners claim to be the beneficiaries of the respondent no.5 Trust and had applied for review of the said order dated 10th January, 2011 after four and half

years i.e. 1st July, 2015. Learned Charity Commissioner, Maharashtra State passed an order dated 10th November, 2016 and rejected the said application on various grounds. It is held by the learned Charity Commissioner that there was no provision in the Maharashtra Public Trusts Act, 1950 permitting the Charity Commissioner to review his own order. The application is also rejected on the ground that the Trust had unanimously passed a resolution transferring the office from Pune to Mumbai for better administration of the Trust. Learned Charity Commissioner, Mumbai also rejected the application of the petitioners on the ground that the apprehension of the petitioners that the office of the company and the Trust were in the same premises is not reasonable.

2. Learned counsel for the petitioners would submit that the trustees of the respondent no.5 Trust had shifted from Pune to Mumbai and more particularly in the same building where the company run by the trustees is situated. She submits that the trustees have been indulging in various activities prejudicial to the interest of the Trust. The petitioners have already filed various proceedings against the Trust under the provisions of the Bombay Public Trusts Act.

3. Mr.Nargolkar, learned counsel appearing for the respondent nos.2 to 5 on the other hand submits that the petitioners

are not the trustees of the respondent no.5 Trust and only came to be the beneficiaries. He submits that as far back as on 10th January, 2011, the learned Charity Commissioner had allowed the transfer application filed by the Trust for shifting of the office of the Trust from Pune to Mumbai on various grounds. He invited my attention to the application dated 7th December, 2011 filed by the petitioners under section 41-E of the Maharashtra Public Trusts Act, 1950. He submits that in the said application, the petitioners themselves had referred to the order of the the transfer of office of the Charity Commissioner on 10th January, 2011. The petitioners however, did not file any application for a period of four and half years for seeking review of the said order. He submits that the Charity Commissioner has rightly rejected the application of the petitioners on various grounds set out in the impugned order.

4. It is submitted that none of the trustees have challenged the said order dated 10th January, 2011 or have applied for review of the said order. The office of the respondent no.5 Trust has been smoothly functioning for last 11 years from Mumbai.

5. It is not in dispute that the petitioners are not the trustees of the respondent no.5 Trust. The Trust has passed an appropriate resolution for shifting of the office from Pune to Mumbai prior to 10th January, 2011 and had applied for transfer under Rule 36(4) of the

Bombay Public Trust Rules, 1951. The Charity Commissioner had allowed the said application as far back as on 10th January, 2011. None of the trustees or other beneficiaries of the transfer challenged the said order. The petitioners applied for review of the said order dated 1st July, 2015 i.e. after expiry of four and half years.

6. Learned counsel for the petitioners could not point out any prejudice to the Trust or the other beneficiaries by shifting the office of the Trust from Pune to Mumbai.

7. A perusal of the application dated 7th December, 2011 filed by the petitioners under section 41-E of the Maharashtra Public Trusts Act clearly indicates that the petitioners were fully aware of the order dated 10th January, 2011 passed by the learned Charity Commissioner allowing the transfer application filed by the Trust. No steps were taken by the petitioners for challenging the said order in accordance with law.

8. In my view petition is totally devoid of merit. I am not inclined to interfere with the findings rendered by the learned Charity Commissioner in the impugned order dated 10th January, 2011.

9. The writ petition is accordingly dismissed. There shall be no order as to costs.

(R.D. DHANUKA, J.)