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

CIVIL WRIT PETITION NO.10409 OF 2018

Sushma Ashok Gupta and Anr. ...Petitioners
Versus
Vijay Sharma and Ors. ...Respondents

Mr.Shailendra Pendse, i/b Mr.Pradeep Dube, for the Petitioners.

Mr.S.H.Kankal, A.G.P for the State.

CORAM : REVATI MOHITE DERE, J.

DATE : 17th SEPTEMBER, 2018

P.C. :

1. Heard learned Counsel for the parties.
2. The principal grievance of the Petitioners is that the Respondent No.3-Assistant Charity Commissioner – VII, Mumbai Region, Mumbai, rejected the Petitioners' application being Application No.ACC-VII/31/2018, vide order dated 29th August, 2018 (although the date in the order is reflected as 29th September, 2018, it is informed that it is an inadvertent mistake), essentially on the ground that the application was rendered infructuous.

3. Learned Counsel for the Petitioners submitted that the Respondent No.3 - Assistant Charity Commissioner – VII, has not considered prayer clauses (c) and (d) of the Petitioners' Application. The said prayer clauses (c) and (d) read thus:-

“(c) that All the Shri Hari Vishnu murty (24 in Numbers) shall be installed in the temple without any further delay/obstruction/hindrane by Trustee Shri Vijay Sharma.

(d) That trustee Shri Vijay Sharma to give account for temple collection in the Daan Paity for last five years and other donation given by the public in the temple.”

4. Learned Counsel for the Petitioners submits that although arguments were advanced vis-a-vis prayer clauses (c) and (d), the authority had failed to consider the same.

5. Perused the papers in particular the impugned order dated 29th August, 2018 (mentioned inadvertently as 29th September, 2018) passed by the Assistant Charity Commissioner – VII. It appears that as the

Gurupornima was during the period from 1st July, 2017 to 9th July, 2017, the authority observed that the ceremony was over and as such the Application was rendered infructuous. Prayer clause (b) is also vague.

6. As far as prayer clauses (c) and (d) are concerned, no doubt it *prima facie* appears that prayer clauses (c) and (d) have not been dealt with by the Authority in the impugned order, however, it is not clear whether any arguments were advanced with respect to prayer clauses (c) and (d) and therefore, it would be difficult to set aside the order on this count.

7. Hence, no interference is warranted in the impugned order dated 29th August, 2018. However, liberty is granted to file a fresh application, with respect to prayer clauses (c) and (d) and also prayer clauses (a) and (b), if the need so arises in future.

8. If such an application is filed, the Authority shall decide the same on its own merits in accordance with law, as expeditiously as possible, uninfluenced by the order dated 29th August, 2018 and having regard to the prayer sought for in the application, so filed.

9. Petition is accordingly disposed of on the aforesaid terms.
10. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)