

Anand

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

WRIT PETITION NO. 11738 OF 2018

Corrugating and Punching Industries & anr. .Petitioners

Vs.

The Joint Charity Commissioner-II & ors. .Respondents

Mr. Prasad Dani, Senior Counsel a/w Mr. A. Gatagat i/b. Vidhi Partners, for the Petitioners

Mr. S. D. Rayarikar, AGP, for the Respondent – State

Mr. Vineet Naik, Senior Counsel a/w Ms R. Lodha & Ms Trishala B. i/b. LODHA LEGAL, Advocate, for the Respondent Nos. 2 to 5

Mr. Z. T. Andhyarujina a/w Ms S. Sardesai i/b. Victor Alex Almeida, Advocate, for the Respondent Nos. 6 & 7

CORAM : REVATI MOHITE DERE, J.

DATE : 01.11.2018

P.C.

. Heard learned counsel for the parties.

2. By this Petition, the Petitioners have impugned the order dated 25.09.2018 passed by the Joint Charity Commissioner-II, Mumbai, by which the Petitioners' pursis dated 06.09.2018 filed in Application No. 476 of 2018 came to be rejected.

3. The Petitioners herein, had filed an Application, being Application No. 476 of 2018 before the Joint Charity Commissioner-II, Mumbai seeking re-call of the order 09.12.2011 as well as the order dated 23.02.2013. During the hearing of the said Application filed by the Petitioners herein, the Petitioners filed a pursis on 06.09.2018, which reads thus :-

“ PURSIS ON BEHALF OF THE
APPLICANT AS UNDER -

In the present application, the Respondent Trust has filed its reply. In the said reply, the Respondent Trust has submitted that as on today, the Respondent Nos. 1 & 2 are not the trustees of the said trust.

The present application has been filed by the Applicant u/sec. 36(2) of the Maharashtra Public Trusts Act. A bare perusal of the application would indicate that there are no reliefs sought personally against any of the trustees.

As per the law laid down by the Hon'ble Bombay High Court vide its order dated 20.04.2018 in Writ Petition No. 312/2018 (read with order dated 29.6.2016 in Writ Petition lodging No. 1581/2016), the former trustees are not required to be made a party and the present trustees can respond to the

present application, as no personal reliefs are sought against the trustees in the present application. Copies of the said orders are annexed herewith.”

4. Learned counsel for the Petitioners submits that the said pursis was not properly worded, however, what was essentially sought was deletion of the names of the Respondent Nos. 1 & 2 i. e. Fr. Anthony D'Souza and Fr. Vernon D'Cunha. Mr. Dani submits that the said pursis was rejected by the Joint Charity Commissioner vide order dated 25.09.2018 and instead the Petitioners were directed to take steps to serve the said Respondents Nos. 1 & 2 i. e. Fr. Anthony D'Souza and Fr. Vernon D'Cunha. Mr. Dani, learned Senior Counsel states that what was sought by the Petitioners by filing the said pursis, was deletion of names of Respondent Nos. 1 & 2 i. e. Fr Anthony D'Souza and Fr. Vernon D'Cunha and as such, the Joint Charity Commissioner ought not to have rejected the same.

5. Learned counsel for the Respondents have no objection, if the names of the Respondent Nos. 1 & 2 i. e. Fr Anthony D'Souza and Fr Vernon D'Cunha are deleted.

6. Accordingly, the impugned order dated 25.09.2018 is quashed & set aside. The Petitioners are permitted to delete the names of the Respondent Nos. 1 & 2 i. e. Fr Anthony D'Souza and Fr Vernon D'Cunha. The Petition is accordingly allowed on the aforesaid terms.

7. Needless to state that all contentions of the parties that flow from the said deletion are kept open.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)