

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 9610 OF 2018
IN
WRIT PETITION NO.2404 OF 1995

Shri Sikhwal Samaj and Others

APPLICANTS

VERSUS

Kalyanibai Parsharam Tiwari and Others

RESPONDENTS

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Mr. R. R. Katneshwarkar, Advocate for the applicants

Mr. V. G. Kodale h/f Mr. V. D. Gunale, Advocate for respondents

No. 4A and 4B

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 1st MARCH, 2019

ORDER :

1. Heard learned advocates for the parties.
2. Though learned advocate for the respondents purports to resist the application, yet having regard to that there is no particular dispute about events as have been stated by learned advocate for the applicants that the trustees and their advocate died and while the matter came up for hearing in 2018, it had been realized that trustees, who were prosecuting the matter, are no more and in the circumstances application has been moved for bringing present applicants on record. There is no

dispute over this factual aspect

3. Although it is being sought to be contended on behalf of the respondents that applicant No. 2 and deceased respondent No. 4 were acquainted with each other and that since there were no elections, it cannot be said that present applicants can continue with the cause in the writ petition.

4. It is being submitted on behalf of the applicants that, present trustees have all along been parties, however, the trustees who died were looking after the proceedings.

5. In the circumstances, having regard to decision of the Supreme Court in the case of *“Perumon Bhagvathy Devaswom V/s Bhargavi Amma”* reported in *2008 DGLS (Soft) 835* relied upon on behalf of the petitioner, and the guidelines of supreme court in the case of *“Collector, Land Acquisition, Anantnag V/s. Ms. Katiji and others”* reported in *AIR 1987 SC 1353*, as also, in the case of *“Esha Bhattacharjee V/s. Managing Committee of Raghunathpur Nafar Academy and others”* reported in *(2013) 12 Supreme Court Cases 649*, and *“Dhiraj Singh (Dead) Through Legal Representatives and Others V/s State of Haryana and others”* reported in *(2014) 14 SCC 127*, it would be expedient that civil application is allowed and matter is contested on merits.

6. In view of the same, civil application is allowed, subject to

payment of costs of Rs.5000/-. Amount of costs be deposited in this court within a period of four weeks from today. Civil application stands disposed of.

**[SUNIL P. DESHMUKH]
JUDGE**

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