

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

**SECOND APPEAL NO. 404 OF 2016
WITH
CIVIL APPLICATION NO. 787 OF 2016**

Mohammad Abdul Khalique and others ... Appellants
Versus
Alhuda Social Welfare Society and others ... Respondents

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Mr. S. M. Kamble for Appellants.

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CORAM : SANDEEP K. SHINDE, J.

DATE : 29th JANUARY, 2019.

P. C.:

1. Heard learned Counsel for the appellant.
2. The Deputy Charity Commissioner, Nashik Region, Nashik in Inquiry Case No.6 of 2014 settled the scheme of respondent No.1-trust, in exercise of its powers under Section 50A(1) of the Maharashtra Public Trust Act, 1950 (for short 'the Act').
3. In the special general body meeting of the trust held on 21st August, 2014, the general body unanimously accepted the new rules and regulations in replacement of the old complicated and cryptic rules and regulations, vide Resolution No.3 passed in the meeting. The general body was of the view that the trust in

question was founded before about 37 years and the scheme then framed at the relevant point of time was not found workable. It was found that the scheme did not have necessary provisions for better and proper administration of the trust including the provisions regarding the elections of the managing committee. The special general body meeting thus in its meeting accepted the new scheme after due deliberations and discussion. The scheme was submitted to the Deputy Charity Commissioner for its settlement in the aforesaid inquiry case which was accepted by the Deputy Charity Commissioner vide judgment and order dated 8th April, 2015.

4. The appellants herein challenged the order of the Deputy Charity Commissioner in Civil Appeal No. 66 of 2015, principally on the following two grounds.

- (i) That before settling the scheme the notice was not published in Urdu local newspaper.
- (ii) The names and the particulars like address, occupation of all the 11 members of the managing committee were not furnished.

5. The Deputy Charity Commissioner as well as the First Appellate Court rendered a finding of fact that there was a need to frame a scheme for the smooth and proper administration of

the trust and the proposed draft scheme adequately safeguards the interest of the trust. The Appellate Court has recorded the finding that the provisions of the draft scheme as it appears is capable of ensuring smooth and proper administration of the trust.

6. Neither in the first appeal proceeding nor in the second appeal, it is argued that either of the clauses of the scheme framed and approved by the Charity Commissioner would cause prejudice to the interest of the applicants. It is not appellants case that the clauses of the scheme framed are not in the interest of the members of the trust. The only argument canvassed is that the applicants were not aware of the resolution passed by the trustees in the general body meeting wherein unanimously the scheme was approved.

7. It may be stated that the resolution dated 25th August, 2014 was passed by the general body unanimously and till date there is no challenge to this resolution by the Appellants before any forum. The objections appear to be names of the persons who were appointed as the members of the managing committee. In my view the Deputy Charity Commissioner has passed the scheme and exercised the jurisdiction under Section 50A(1) of the Act. In the case in hand, the notice was published in the local

newspaper “Punyanagari” which has the wide circulation within area of operation of the Trust. Besides, it appears that the notice was also affixed on the notice board of the Municipal Council. Essentially, the challenge is to the findings of facts.

8. In view of aforesaid, the appeal does not give rise to any substantial questions of law, therefore it is dismissed. Civil application does not survive and is disposed of accordingly.

(SANDEEP K. SHINDE, J.)