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

PUBLIC INTEREST LITIGATION (St.) NO. 6213 OF 2017

Vishwanath Kashinath Sonawane & Ors. ... Petitioners.

V/s.

The State of Maharashtra and Ors. ... Respondents.

Mr. Preeti Walimbe for the Petitioners.

Mr. P.P. Kakade, AGP for Respondent No. 1 to 5.

Mr. Manoj Patil for Respondent No.6.

Mr. Mahesh V. Rawool for Respondent No.7.

***CORAM : NARESH H. PATIL, C.J. &
N.M. JAMDAR, J.***

DATE : 13 MARCH 2019.

P.C. :-

The Petitioners are the villagers of the Kanersar Village, Taluka Khed, District Pune. This Public Interest Petition is pending since 2017. The learned Counsel appearing for the Petitioners submits that there is a temple of Yamai Devi which managed by the Yamai Devi Trust – Respondent No.7. The trust had illegally permitted some shops to be constructed and the entrance to the temple is obstructed which causes inconvenience to the villagers.

The representations were filed before the Taluka Revenue Officer, and Gram Panchayat.

2. Heard the learned Counsel for the Respondent No.7 – Trust and the learned Counsel for Respondent No.6 – Gram Panchayat. The learned Counsel for the Gram Panchayat submits that as the matter is pending, they are unable to take any decision in respect of shops being illegally constructed.

3. Perused the orders passed by this Court. The report dated 7 February 2019 submitted by Dr. Jayashree Katare, Collector, Pune in which it is stated that 23 shops are constructed by the Deosthan and around 23 shops are constructed without seeking permission. There locations are also mentioned in the said communication. The learned Counsel appearing for the trust submits that even the Petitioner had illegal constructions in the village and there are more than 100 constructions on the other property which statement is denied by the learned Counsel for the Petitioners.

4. In the facts of the present case, we do not find it appropriate to entertain this Petition under the extra-ordinary writ jurisdiction to decide as to whether the shops are illegally and unauthorizedly constructed or not.

5. It is submitted that some of the shop owners had applied to the Gram Panchayat seeking permission. We would not express any opinion as to whether the 23 shops as described by the communication by the Collector are illegally constructed or not shall be again decided by the concerned authorities. No decision could be communicated by the Gram Panchayat as to whether the devotees shall enter from A gate or B gate. We are informed that the proceedings are pending before the Charity Commissioner which authority is free to deal with the issues in accordance with the material brought before the Court and in accordance with law.

6. The Collector of the Pune District would guide the officers under him so that the Deosthan Administration is conducted in fair and transparent manner and the purpose of administration of temple trust is achieved without there being any inconvenience to the devotees. It is equally responsibility of the trust – management and other authorities to see that the trust property is protected and no encroachment of any nature takes place.

7. We therefore dispose of this Petition in view of the above observations.

8. Registry is directed to forward the copy of this order to the Collector, Pune.

N.M. JAMDAR, J.

CHIEF JUSTICE