

ISM

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

WRIT PETITION NO. 6341 OF 2015

Mr. Dipesh Sampat Mehta

.....Petitioner

V/s.

Ms. Anya Lehra and others

.....Respondents

Mr. Rumi Mirza a/w Mr. Kaushal Thakka i/b Mr. Prashant P. Kulkarni
for the Petitioner

Ms. Geeta Sonawane AGP for the State

CORAM : NITIN W. SAMBRE, J.

DATE : JULY 1, 2019.

P.C.

Pursuant to provisions of Section 22 of the Maharashtra Public Trust Act, 1950 ('the Act' for short) a change report was accepted at the behest of the petitioner thereby entering name of Trustees on the Trust by name "Breach Candy Swimming Bath Trust" PTR-E-1780(Bom.).

2 The order of the Deputy Charity Commissioner dated 26/08/2010 incorporating Mrs. Bettina Dumler, Dr. Rohit Barman and present petitioner Dipesh Mehta adding Trustees in Schedule 1

was subject matter of challenge before the Charity Commissioner, Mumbai in Revision Application No. 24 of 2013.

3 In the said Revision proceedings, application came to be moved seeking addition of party by amending memo of revision application preferred under Section 70A of the Act. The said application Exhibit 13 came to be allowed by the impugned order dated 04/03/2015. As such, this petition.

4 Shri. Kulkarni, the learned counsel for the petitioner made following submissions; The limitation prescribed is that of 60 days for preferring a revision and as such, beyond the said period of limitation, prayer made in application Exhibit 13 to the extent of addition of parties ought not to have been granted. Once the right is accrued in favour of the petitioner on the issue of non joinder of necessary parties, the same cannot be cured by granting application Exhibit 13 and as such, according to him, order impugned is liable to be set aside.

5 None appeared for the respondent.

6 By the order impugned dated 04/03/2015, Charity Commissioner while awarding cost of Rs. 5000/- in favour of the petitioner has permitted amendment.

7 Though the learned counsel for the petitioner had made submissions as regards the issue of limitation and effect of non joinder of necessary parties, in my opinion, once the authority below has found that amendment needs to be granted based on the circumstances brought before it, in absence of applicability of the Code of Civil Procedure, this Court need not to go into the merits of the issues as to whether the Charity Commissioner has rightly granted the prayer for amendment.

8 Granting liberty to agitate the said issue at the final stage of proceedings, in my opinion, petition does not warrant any interference.

9 Petition stands dismissed.

[NITIN W. SAMBRE, J.]