

form and establish a trust by name Guruvarya Keshavrao Vichare Trust, under the provisions of Maharashtra Public Trusts Act, 1950 (for short, “Said Act”) and bequeathed four immovable properties mentioned therein in favour of the said trust. The respondent No.1 was appointed as 'Executrix' of the said Will. The record further indicates that, after the demise of Shri Laxmanrao K. Vichare, the respondent No.1 filed an application under Section 18 of the said Act for registration of the public trust in the name of Guruvarya Keshavrao Vichare Trust on 4th May 2011. The petitioner thereafter on 28th February 2018 filed application below Exhibit-45 allegedly under Section 19 of the said Act praying that, an enquiry under the said Section may be conducted before registration of the said trust. By the impugned Order dated 25th June 2018, the said application has been rejected by the Assistant Charity Commissioner.

3] Mr.Damle, learned Senior Counsel for the petitioner submitted that, the petitioner has filed Regular Civil Suit No.312 of 2017 in the Court of Joint Civil Judge, Senior Division, Ulhasnagar, praying that, the said Will dated 7th December 2004 executed by late Laxmanrao K. Vichare may be declared as illegal and for other consequential reliefs. It is submitted that, the said suit is pending for final adjudication before

the Court of competent jurisdiction and in view thereof, it was necessary for the Assistant Charity Commissioner to conduct an enquiry of the trust properties before granting certificate of registration under Section 20 of the said Act. He submitted that, the petitioner being wife of the said Shri Laxmanrao K. Vichare, has every right to see that the properties of her husband goes in safe hands and it should not be divulged or diverted to some elements who does not have bonafide intention. He therefore prayed that the impugned Order may be set-aside by allowing the present petition.

4] Per contra, Mr.Dewal, learned counsel for the respondent vehemently opposed the petition and submitted that, the Order passed by the Assistant Charity Commissioner is just, right and proper and prayed that, the present petition may be dismissed.

5] A perusal of record would indicate that, in the Will dated 7th December 2004 executed by Shri Laxmanrao K. Vichare, he has categorically stated that, the petitioner herein since 1960 i.e. the year from which she entered into politics, did not pay proper attention rather any day-to-day attention to their home and their marital relations, due to her behaviour were strained. She not only caused undue harassment

to her husband but to other relatives also. It is further stated in the Will that, the share of the petitioner has already been given to her by the executor of the said Will. It is further stated that, the petitioner has been given substantial payment from the family arrangement and also from immovable property situated at Mumbai along with cash amount for her survival and benefits. A perusal of Will further indicates that, the petitioner herein had earlier filed Special Civil Suit No.553 of 1987 for dissolution of the partnership firm, namely, M/s.Prabhavi Poultry Farm, for its accounts and also for share in the property of the said firm, against the said Shri Laxmanrao K. Vichare pertaining to their said partnership firm.

In para 4 of the said Will, the executer has termed the said act of the petitioner as *malafide* and prompted with bad intention. It further appears from the Will that, the petitioner had also filed an application for maintenance against Shri Laxmanrao K. Vichare in the Family Court at Bandra. After perusing the Will *prima-facie* it appears that, due to the afore-stated reasons and other reasons more particularly mentioned in the said Will Shri Laxmanrao K. Vichare did not give the said immovable property mentioned in the Will and in the application

for registration of the trust, to the petitioner herein and expressed his desire to form a public charitable trust. Further in para No.13 of the Will, it is stated that, Smt.Pramodini Laxman Hajare, Shri Suresh Ganpatrao Shinde, Dr. Hemant Ravindra Chitnis, Shri Shriram Krushnaji Borkar and Shri Rajaram Vyankatrao Phalke are to be appointed as trustees of the said Trust which was established during the lifetime of Shri Laxmanrao K. Vichare in the name of Guruvarya Keshavrao Vichare Trust.

6] The record further indicates that, in this background, the petitioner through her constituted attorney has filed the said application under Section 19 before the Assistant Charity Commissioner. It further appears that, the aforesaid Special Civil Suit filed in the year 2017 is also filed through her constituted attorney seeking the said reliefs therein. After perusing the record produced before me, I am of the considered view that, the petitioner has no interest in the trust property and the said application claiming enquiry under Section 19 of the said Act was filed just to cause harassment to other trustees, as the petitioner has been divested from her right to inherit the said immovable property in furtherance of Will dated 7th December 2004 executed by Shri

Laxmanrao K. Vichare.

7] Perusal of impugned Order would clearly indicates that, it does not suffer from any error, either in law or on facts and the Assistant Charity Commissioner-III, Thane has rightly rejected the said application filed below Exhibit-45.

8] Petition being devoid of merits, is accordingly rejected.

[A.S. GADKARI, J.]