

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

**CIVIL APPLICATION NO. 3713 OF 2012
IN
FIRST APPEAL NO. 1531 OF 2012**

Appasaheb Sultanrao Japtanmulukh (Jadhav)

(since decd. Through legal heirs) :

Rajesh Appasaheb Japtanmulukh (Jadhav) & Anr.Applicants

V/s.

Urjit Nilkhantrao Japtanmulukh (Jadhav)Respondent

Mr. Abhay Anturkar a/w. Mr. Shubham Misar i/b.

Mr. Sugandh B. Deshmukh for the applicants.

Mr. Ashutosh B. Patil i/b. Mr. N.V. Bandiwadekar for the respondent.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 07th JUNE, 2019.

P.C.:-

. The learned counsel for the applicant states that due to an inadvertent error, the applicant has sought to stay execution of judgment and decree dated 21/07/2012 in Miscellaneous Civil Application No.234/2007 instead of judgment and order dated 21/09/2007 in Appeal No.28/2007. He seeks leave to amend the prayer clause (b) of the stay application. Leave is granted. Amendment to be carried out forthwith.

2. By this application, the applicants have sought to stay execution and implementation of judgment and order dated 21/09/2007 passed

by the learned Joint Charity Commissioner, Kolhapur in Appeal No.28/2007.

3. Heard the learned counsel for the applicant and respondent. I have perused the records.

4. The records indicate that the respondent had filed Appeal No.28/2007 challenging the order dated 27/02/2007 passed by the learned Deputy Charity Commissioner, Kolhapur in Change Report No.382/2003. The said Appeal No.28/2007 was allowed by the Joint Charity Commissioner, Kolhapur by judgment dated 21/09/2007. By the said order, the learned Joint Charity Commissioner had set aside the order passed in Change Report No.382/2003 and allowed recording of the name of the respondent – Urjit in the PTR of the Trust. The appellant herein had challenged the said order before the District Court by filing an application under Section 72 of Bombay Public Trust Act.

5. By order dated 21/07/2012, the learned District Judge dismissed the said application under Section 72 of BPT Act. Being aggrieved by the said order, the appellant has preferred this appeal and has sought

stay of the execution of the order dated 21/09/2007. The learned counsel for the appellants concedes that no stay was operating during the pendency of the Miscellaneous Civil Application No.234/2007. The order dated 21/09/2007 has been executed and implemented and as such there is no question of staying execution of said order after a period of over twelve years.

6. Under the circumstances, Civil Application is dismissed. However, considering the narrow controversy involved between the parties, hearing of the appeal is expedited.

7. List the Appeal on final hearing board in the week commencing from 08th July, 2019.

(SMT. ANUJA PRABHUDESSAI, J.)