

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.890 OF 2018

Manu Gopaldas Chhabria	Petitioner
vs	
Bansidhar Khupchad Nagpal And 5 Ors.	...Respondents

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Mr. R.N. Sukhija, for the Petitioner.

Mr. Nikhil Mishra, for Respondent Nos. 1, 3 and 4.

Ms. Uma Palsuledesai, AGP, for Respondent Nos. 5 and 6.

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CORAM : S.C. GUPTE, J.

DATED: 1 APRIL 2019

P.C.:

. This writ petition challenges an order passed by Assistant Charity Commissioner, Maharashtra State, Brihanmumbai Region in a change report enquiry. The Petitioner was an objector to the change report, which was filed by Respondent No.1 reporting trustee. It is the grievance of the Petitioner that when his cross-examination was being recorded before the Assistant Charity Commissioner, his answers were not correctly recorded. The cross-examination was partly recorded on 26 November 2014. No further recording had taken place thereafter. The application was made by the Petitioner for expunging parts of the record of his cross-examination after obtaining a certified copy of its text. Obtaining of the copy took quite some time, as reflected in the Petitioner's application for expungement made before the Assistant

Charity Commissioner. Be that as it may, it transpires that on this application, which was made on 26 February 2015, that is to say, within three months of the recording of the cross-examination, the Assistant Charity Commissioner took a decision on 20 June 2017, that is, about two and half years after the application was made. It is hard to imagine that after more than two and half years of recording of the cross-examination, the officer would recollect what was said before him and compare the same to what was recorded by him. In the premises, upon a query by this Court whether they would like to go back to the Assistant Charity Commissioner, who has now come in place of the Assistant Charity Commissioner who heard the matter earlier, and have the entire cross-examination recorded afresh, the parties consent to the same. Accordingly, the petition is allowed by setting aside the minutes of evidence recorded on 26 November 2014 and remitting the change report enquiry from the stage of beginning of the cross examination of the objector. The cross-examination partly recorded in minutes of evidence dated 26 November 2014 shall, accordingly, stand expunged and the matter shall be heard afresh by the new Assistant Charity Commissioner. The Assistant Charity Commissioner shall complete recording of the cross-examination of the Petitioner within a period of three months from today. It is made clear that each day's text of cross-examination shall be made available to the Petitioner the very next day and till such text is made available, no further cross-examination shall be held.

(S.C. GUPTE, J.)