

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2148/2019

Moreshwar B. Nikhade

..VS..

Madhukar Y. Kukade & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.K. Paliwal, Advocate for the petitioner
Shri A.Z. Jibhkate, Advocate for the respondent nos. 1 to 6
Ms. Geeta Tiwari, AGP for the respondent no. 7

CORAM : Z.A.HAQ, J.
DATED : 10/06/2019

Heard.

The judgment passed by the learned District Judge under Section 72 (1) of the Maharashtra Public Trusts Act, 1950 (for short “the Act of 1950”) upholding the order passed by the Assistant Charity Commissioner in the proceedings under Section 50A (1) of the Act of 1950, is challenged in this petition. The contention of the petitioner who is the recorded trustee of the public trust is that the proceedings before the Assistant Charity Commissioner in fact were under Section 50A (3) of the Act of 1950 for amendment of the scheme of the public trust, however, it is dealt with as the proceedings under Section 50A (1) of the Act of 1950 and the new scheme is substituted.

RULE.

Shri A.Z. Jibhkate, Advocate waives notice for the respondent nos. 1 to 6 and Ms. Geeta Tiwari, AGP waives notice for the respondent no. 7.

The facts on record show that only two recorded trustees are alive. Considering this fact, the learned Assistant Charity Commissioner appointed the ad-hoc trustees for the period of 5 years from the date of the order. The appointment of the ad-hoc trustees is till 08/12/2019. The learned District Judge has maintained this order passed by the Assistant Charity Commissioner.

It is informed that the earlier change reports filed by the petitioner informing about the appointment of the trustees came to be rejected, however, subsequent change report (Enquiry No. 81/2019) informing about appointment of the trustees is again filed and is pending before the Assistant Charity Commissioner.

Considering the facts of the case, the learned Assistant Charity Commissioner is directed to decide the change report till 30/08/2019.

Interim order granted by this Court on 26/03/2019 is vacated. In the facts of the case, prayer for interim order is not considered at this stage. The petitioner will be at liberty to reiterate the prayer for interim order after 30/08/2019.

Civil Application (W) No. 1283/2019

As the interim order is already vacated by the order passed above, no further orders are required on this civil application.

The civil application is **disposed** accordingly.

JUDGE

Ansari