IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH NAGPUR

WRIT PETITION NO.5975/2019

Sahdeo @ Shahdeorao S/o. Janrao Sardar ..VS.. Dulhagate Masjid Trust & Oth.

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

Shri H. A. Biherani, Advocate for the petitioner

CORAM : Z.A.HAQ, J.
DATED : 03/09/2019

Heard.

2] Father of the petitioner was tenant of the agricultural land owned by the respondent No.1-public trust. After death of father of petitioner on 1st November 1993, the respondent No.1-public trust had initiated proceedings for summary eviction of the petitioner. However, when the matter reached this Court, this Court held that summary eviction of the petitioner under Section 120 (c) of the Maharashtra Tenancy and Agricultural Lands (Vidarbha Region) Act, 1958 (hereinafter referred to as “the Act of 1958”) was not permissible as the respondent No.1-public trust was not granted exemption certificate as per Section 129 (b) of the Act of 1958. Then the respondent No.1-public trust applied for the exemption certificate which came to be granted by the Sub-Divisional Officer by order dated 14th September 2016. This order was challenged by the petitioner before the Maharashtra Revenue Tribunal in revision application which is dismissed by the impugned order.

3] The contention of the petitioner is that the exemption certificate as per Section 129 (b) of the Act of 1958 cannot be granted as the respondents have failed to prove that entire income of the public trust is used for the purposes as mentioned in Section 129 (b) of the Act of 1958. It is submitted that the Sub-Divisional Officer and the Tribunal has granted the exemption certificate relying only on the audited accounts. Referring to the provisions of Section 60 of the Evidence Act and the judgment given by the Allahabad High Court in the case of Dilip Singh Rana .v/s. State of U.P., reported in **1994 All.LJ 580,** it is submitted that the audit reports cannot be considered as substantive evidence of the genuineness or bonafide nature of the transactions referred in the accounts. It is argued that as the respondents have failed to prove that entire income of the public trust is used for the purposes as mentioned in Section 129 (b) of the Act of 1958, the public trust is not entitled for the exemption certificate. It is prayed that the impugned order be set aside.

4] It is not in dispute that the public trust is created with the object of maintaining a Masjid. The petitioner has not been able to show that except for the purposes mentioned in Section 129 (b) of the Act of 1958, the income of the public trust is used for some other purposes also.

After going through the impugned order, I find that the Sub Divisional Officer and the Maharashtra Revenue Tribunal have recorded the findings of fact, considering the evidence brought on record by the respondents. The petitioner has not been able to point out that the findings of fact recorded by the Sub-Divisional officer and Maharashtra Revenue Tribunal suffer from any illegality or perversity which necessitates inference by this Court with the impugned order in the extraordinary jurisdiction.

Hence, writ petition is **dismissed**. No costs.

(Z.A.HAQ, J.)

Namrata