

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

Writ Petition No.5806 of 2016
(Mohd. Sultan Mohd. Issak .vs. Assistant Charity Commissioner, Amravati
and others.)

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

Mr. P. A.Kadu, Advocate for Petitioner.
Mr. S.B. Bissa, AGP for Respondent No.1.
Mr. K.P. Mahalle, Advocate for Respondent No.2.

CORAM : Manish Pitale, J.
DATED : February 25, 2019.

By this writ petition, the petitioner has challenged order dated 12.04.2014 passed by the Lok Adalat, as also award dated 12.04.2014 passed by the Assistant Charity Commissioner, Amravati Region, Amravati, which was an award passed on the aforesaid order passed by the Lok Adalat.

2. The petitioner was a trustee of the respondent no.13 Trust and there was a change report submitted before the Assistant Charity Commissioner, claiming that pursuant to an election, a new body had been elected and that the petitioner was a member of the outgoing body. The said proceeding pending before the Assistant Charity Commissioner was referred to the Lok Adalat. In the impugned order dated 12.04.2014, the Lok Adalat recorded terms of compromise between the reporting trustees and the outgoing trustees, which allegedly included the petitioner herein. It was recorded

in the order dated 12.04.2014 of the Lok Adalat that the parties had compromised the matter wilfully and that the outgoing trustees had no objection to the names of the reporting trustees and the new body allegedly elected to the respondent no.13 trust, being brought on record. On the basis of the said order of the Lok Adalat, the Assistant Charity Commissioner passed the award dated 12.04.2014, thereby accepting the change report and directing amendment of Schedule I accordingly.

3. It is the case of the petitioner herein that being an outgoing trustee, he had never signed on certain proceedings of the trust and that he had not authorised any advocate or any person to appear on his behalf before the Lok Adalat and further that he was not party to the terms of compromise on the basis of which the impugned order dated 12.04.2014 was passed by the Lok Adalat. On this basis, it was submitted that the award passed by the Assistant Charity Commissioner dated 12.04.2014 was also vitiated. The main contention raised on behalf of the petitioner was that the Lok Adalat under the provisions of the Legal Services Authority Act, 1987, had no authority to record any such compromise that would lead to disposal of the change report. Reliance was placed on Division Bench judgment of this Court in the case of **Rajabhau Damodar Raikar .vs. Assistant Charity Commissioner, Pune and ors. - 2015(4) Mh.L.J. 275.**

4. A perusal of the said judgment shows that the Division Bench of this Court has held as follows:-

“16. Now coming back to the impugned order, the change report has been allowed by the Maha Lok Adalat only on the ground that the change report is uncontested. It is merely observed that the documents produced by the applicant in the change report show that the trust has followed the due process to report the change.

17. Therefore, the Lok Adalat had no jurisdiction to decide the change report on merits. In this case, there was no compromise recorded before the Lok Adalat. Even otherwise, the proceedings in the nature of a change report under [section 22](#) of the said Act of 1950 can not be disposed of without holding an inquiry only on the basis of a consent of the parties or a settlement between the parties. Therefore, the answer to the issue formulated in paragraph 6 is in the negative.”

5. The said position of law makes it very clear that Lok Adalat in the present case could not have recorded the compromise dated 12.04.2014, which resulted in the award dated 12.04.2014 being passed by the Assistant Charity Commissioner, accepting the change report. The impugned orders are, therefore, rendered without jurisdiction because, as laid down by the Division Bench of this Court in the aforesaid judgment, the Lok Adalat has no jurisdiction to record compromise, which would result in disposal of a change report proceeding, other than by a proper inquiry to be conducted by the concerned authority i.e. Assistant Charity Commissioner in the present case. The inquiry

could not have been decided or terminated on the basis of the consent of the parties or a settlement between them, because the Assistant Charity Commissioner is mandated under the provisions of the Maharashtra Public Trusts Act, 1950 to decide each change report on merits.

6. Thus, on this short ground, the impugned award is found to be unsustainable. Accordingly, the award dated 12.04.2014 passed by the Assistant Charity Commissioner, is quashed and set aside. The matter is remanded to the said authority to be taken up for inquiry and decision on merits.

7. Accordingly, the parties are directed to remain present before the Assistant Charity Commissioner, Amravati Region, Amravati, on 04.03.2019.

8. Writ petition is disposed of accordingly.

JUDGE

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