

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

WRIT PETITION NO. 10001 OF 2019

Shri Ramchandra Sakharam Patil & Ors. ... Petitioners.

V/s.

Shri Piloba G. Mulik & Ors. ... Respondents.

Mr. Bhooshan R. Mandlik, Advocate, for the Petitioners.
Mr. Sandesh D. Patil, Advocate a/w. Mr. Dhondiram R.
Mulik i/by Ms.Divya A. Pawar- Patil, for Respondent No. 2.
Mr. C.D.Mali, AGP for Respondent Nos. 3 & 4.

**CORAM : UJJAL BHUYAN, J.
DATE : JANUARY 06, 2020**

PC :

1 Heard Mr. B.R. Mandlik, learned counsel for the Petitioners; Mr.Sandesh D.Patil, learned counsel for Respondent No. 1 & 2 (Respondent No. 1 has expired in the meantime, as submitted); and Mr. C.D.Mali, learned AGP for Respondent Nos. 3 and 4.

2 By this Writ Petition filed under Articles 226 / 227 of the Constitution of India, Petitioners have assailed the legality and correctness of order dated 16.07.2019 passed by the Joint Charity Commissioner, Kolhapur Division, Kolhapur, disposing of the two

appeals filed by the Petitioners, as per terms mentioned in the said order.

3 Matter relates to composition of the Trust by the name of - Shri Jyotirling Dev of Girjavade.

4 In view of the broad consensus arrived across the bar, it may not be necessary to have an elaborate recital of the facts.

5 Insofar impugned order dated 16.07.2019 is concerned, the same was passed without considering the grounds advanced by the Petitioners as well as by the Respondents and without hearing the parties.

6 In such circumstances, Court is of the view that having regard to the nature of order passed by the Joint Charity Commissioner, it was necessary that the parties to the appeals ought to have been heard and their contentions considered. In the absence thereof, impugned order cannot be sustained.

7 Consequently, impugned order dated 16.07.2019 is hereby set aside and the matter is remanded back to the Joint Charity Commissioner, Kolhapur Division, Kolhapur, who shall re-hear Appeal

Nos. 22 & 23 of 2018, after giving due opportunities to the contesting parties and thereafter to pass appropriate order(s) in accordance with law within a period of two months from today.

8 Interim order passed by this court shall continue till disposal of the two appeals, as directed above.

9 In order to enable the Joint Charity Commissioner to proceed with the hearing afresh, let the parties appear before him on 13.01.2010 at 11 a.m.. Parties to act upon an authenticated copy of this order, duly issued by the Registry.

10 Writ Petition is disposed of in the above terms.

(UJJAL BHUYAN, J.)

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