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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION No. 470 OF 2017

Abdul Mannan Nasibullah Somani ... Petitioner
Vs.
Mrs. Suvarna Joshi-Khandelwal ... Respondent

Ms. Bangwala i/b N. A. Mogre, for the Petitioner.

CORAM : C. V. BHADANG, J.

DATE : FEBRUARY 3, 2020

PC :

1. The Petitioner was respondent / objector in Change Report No. 3031 of 2000 before the Deputy Charity Commissioner, Mumbai. The Petitioner sought to raise a preliminary objection in the said report that the Change Report is barred by limitation, as the change was reported after a period of 22 years of the occurrence of the change.

2. It appears that the Deputy Charity Commissioner had refused to consider the said issue as a preliminary issue, which order was challenged by the Petitioner before this Court in Writ Petition No. 1357 of 2016. This Court while disposing the said petition on 1st February, 2016 passed the following order.

“1. Not on board. Upon production taken on board.

2. There is no necessity to entertain the present petition. Suffice to observe that the Dy. Charity Commissioner shall take into consideration all the contentions raised by the parties, including contentions which go to very maintainability of the proceedings. Although, it may not be necessary in the facts and circumstances of the present case to frame preliminary issues, it is nevertheless necessary that all such issues are taken up together and decided in accordance with law and on their own merits.

3. With the aforesaid observation this petition is disposed of. All concerned to act on the authenticated copy of this order.”

3. After this, the learned Dy. Charity Commissioner has decided the Change Report by judgment and order on 29th October, 2016, and the change report is accepted.

4. The contention raised on behalf of the Petitioner is that although this Court has expressed that the Deputy Charity Commissioner shall take into consideration all the contentions raised by the parties, including the contentions which go to the very root of maintainability of the proceedings, the Deputy Charity Commissioner has not considered the contentions so raised by the Petitioner. This, according to the learned counsel for the Petitioner, is in the nature of contempt of this Court. The learned counsel for the Petitioner pointed out that the order passed by this Court on 1st February, 2016 was specifically brought to the notice of the learned Deputy Charity

Commissioner.

5. On hearing, the learned counsel for the Petitioner, I do not find that any case, for initiation of action for contempt, is made out. All that this Court said in the order of 1st February, 2016 is that there is no need to frame a preliminary issue, and all such contentions, which may be raised by the Petitioner including the contentions going to the very root of the matter about maintainability of the change report shall be considered by the learned Joint Charity Commissioner. The learned counsel for the Petitioner pointed out that the order passed by the Deputy Charity Commissioner on 26th October, 2016 is subject matter of three appeals before the Joint Charity Commissioner. If according to the learned counsel for the Petitioner certain contentions are not properly considered by the Deputy Charity Commissioner while accepting the change report, it is for the Petitioner to raise the issue before the Joint Charity Commissioner in the appeals. In that view of the matter, keeping rival contentions of the parties open, the petition is disposed of.

Sd/-
C. V. BHADANG, J.