

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

**WRIT PETITION NO. 12649 OF 2019
WITH
INTERIM APPLICATION NO.1 OF 2020**

Mukesh Kantilal Sarda
@ Shri.Swami Mukesh Bharti
V/s.
Yogesh Thakkar @
Swami Premgeet and Anr.
..Petitioner
..Respondents

**WITH
INTERIM APPLICATION NO.1 OF 2020**

Yogesh Thakkar @
Swami Premgeet and Anr.
V/s.
Mukesh Kantilal Sarda
..Applicant
..Respondents

Mr.S.R. Nargolkar a/w Mr.A.B. Kadam for the Petitioner.

Mr.Nikhil Jaykar i/b Ms.Smita Swant for Respondent Nos.1 and 2
and for the Applicant in IA No.1 of 2020.

Nilam
Kamble

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by Nilam Kamble
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CORAM : C.V. BHADANG, J.

DATE : 31st JANUARY 2020

P.C.

1. This petition can be disposed of on a short count by
consent of parties.

2. The petition challenges two orders, both dated 21st
November 2019 below Exhibit-53 and below Exhibit-2 passed by the

Joint Charity Commissioner, Mumbai. By the order below Exhibit-53 the learned Joint Charity Commissioner has directed that the application for interim relief at Exhibit-2 shall be entertained independent of the main application and consequently by the order below Exhibit-2 has fixed the hearing on the application below Exhibit-2.

3. The learned counsel for respondent on instructions states that the respondent shall not press for the interim application Exhibit-2 and the main application under Section 41E of the Maharashtra Public Trust Act may be directed to be heard and decided expeditiously.

4. The learned counsel in all fairness and on instructions also states that in order to enable the Joint Charity Commissioner to decide the main application expeditiously, the petitioner shall not press the application for amendment. He submits that the respondent however, reserves liberty to file a fresh application under Section 41E if there is any fresh cause of action made out. The learned counsel for the respondents states that in that event the contentions of the petitioner including about the existence of any fresh cause of action may be left open.

5. In such circumstances, the petition is disposed of in the following terms:-

(i) The impugned orders below Exhibit-53 and Exhibit-2 are hereby set aside.

(ii) The respondent shall not press the application for amendment filed before the learned Joint Charity Commissioner.

(iii) The learned Joint Charity Commissioner shall proceed to decide the main application finally by 03rd March 2020 as already directed.

(iv) It is made clear that the disposal of this petition does not preclude the respondent, in approaching the learned Joint Charity Commissioner under Section 41E, if there is any fresh cause of action.

(v) This will however, be subject to all the contentions which are available on the facts and in law, to the respondent being left open.

(vi) In the circumstances, there shall be no order as to costs.

6. In view of the disposal of the Writ Petition, all pending Civil Applications do not survive and the same are accordingly disposed of.

C.V. BHADANG, J.