

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.8425 OF 2021

M. Rehmatullah Sk. Imam

Petitioner

Versus

Sayyed Waseem Bari & others

Respondents

Mr. Ameya N. Sabnis, advocate for the petitioner
Mr.P.V.Barde, advocate for Respondents.

CORAM : AVINASH G. GHAROTE, J.

DATE : 04th August, 2021.

PC :

1 Heard Mr.Sabnis, learned Counsel for the petitioner and Mr.Barde, who represents all the respondents.

2 The only controversy, which is raised, is that the Assistant Charity Commission, while deciding an inquiry under Section 22 of the Maharashtra Public Trusts Act, ought to have framed issues so that the parties could be aware as to the nature of evidence sought to be led. An application made in that regard at Exhibit-48 has been rejected by the impugned order dated 25.02.2021.

3 Rule 7, of the Bombay Public Trusts Rules, 1951, which relate to the manner of conduct of inquiries, provides, that the inquiries shall, as far as possible, be in accordance with the procedure prescribed for the trial of the suits under the Provincial Small Causes Court Act, 1887 where the inquiry is being held outside the Greater Bombay Region. Section 17(1) of the Provincial Small Causes Court Act, 1887, provides that the procedure prescribed in the Code of Civil Procedure shall, save in so far, as is otherwise provided by that Code or by this Act, shall be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of it. The inquiry contemplated under the provisions of Provincial Small Causes Courts Act as well as under Rule 7 of the Bombay Public Trusts Rules, is an inquiry of a summary nature and does not contemplate the importing of the provisions of Order XIV of the Code of Civil Procedure, in the matter of conducting such inquiries by requiring framing of issues or points for determination before the evidence is led. The Code of Civil Procedure is applicable to a limited extent, and that too in the matter of recording evidence, summoning the witnesses and provisions relating to trial of the suit and not otherwise. This has been so held by this Court in **Vithoba Balaji Ghodke and others Vs. Balkrishna Ganesh Bhalerao**

and others, 1967 MhLJ 224, which has been considered in **Saroj Ashok Sontakke Vs Isaac Baburao Manwatkar & others**, 2020 (3) MhLJ 136.

4 This being the position, the impugned order, in my considered opinion, does not suffer from any infirmity and does not call for any interference.

5 The petition is, therefore, dismissed.

6 Needless to state that the Assistant Charity Commissioner, while deciding the dispute under Section 22 of the Maharashtra Public Trusts Act,, shall have to decide the same on the anvil of the nature of controversy between the parties as flowing from the respective contentions and shall have to record his reasons, on such points which may fall for his determination in the said inquiry.

(AVINASH G. GHAROTE)
JUDGE