

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

920 CRIMINAL WRIT PETITION NO.504 OF 2021

Bhagwantrao Jagatrao Deshmukh
And Others

..PETITIONERS

V E R S U S

Mahesh S/o Ananda Patil
And Others

..RESPONDENTS

...

*Advocate for Petitioners : Mr. V.D. Hon, Senior Counsel i/b
Mr. A.V. Hon*

A.P.P. for Respondent Nos. 10 to 13 : Mrs. G. L. Deshpande

Advocate for Respondent No. 2 to 7 & 9 : Mr. A.B. Kale

Advocate for Respondent No. 16 : Mr. A.D. Shinde

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WITH

CRIMINAL APPLICATION NO. 1191 OF 2021

Mahesh Ananda Patil
Through its Director,
Jalgaon Zilla Maratha Vidya Prasarak

..APPLICANTS

V E R S U S

Nilkath S/o Shankarrao Katkar
And Others

..RESPONDENTS

...

Advocate for the Applicants : Mr. A. B. Kale

A.P.P for Respondent Nos. 16 to 19 : Mrs. G. L. Deshpande

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IN

CRIMINAL WRIT PETITION NO. 521 OF 2021

Sau. Alka W/o Santosh Pawar & Another

..PETITIONERS

VERSUS

Mahesh S/o Ananda Patil & Others

..Respondents

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Advocate for the Petitioners : Mr. N.D. Sonavane

A.P.P for Respondent Nos. 10 to 13 : Mrs. G.L.Deshpande

CRIMINAL WRIT PETITION NO. 522 OF 2021

Nilesh S/o Ranjit Bhoite

..PETITIONER

VERSUS

Mahesh Ananda Patil & Others

..RESPONDENTS

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Advocate for the Petitioner : Mr. A.D. Shinde
A.P.P for Respondent Nos. 10 to 13 : Mrs. G.L.Deshpande

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CORAM : N.R. BORKAR, J.
DATE : 17.11.2021

PER COURT :-

All these petitions take exception to the order dated 26th March 2021 passed by the learned Additional Sessions Judge, Jalgaon in Criminal Revision Application No. 7 of 2019.

2. According to the petitioners they are the elected members of board of trustees of an educational trust namely *Jalgaon Zilla Maratha Vidha Prasarak Sahakari Samaj Ltd., Jalgaon*, a trust which is registered under the provision of the Bombay Public Trust Act and Bombay Act No. VII of 1925. It is stated that right from beginning, there are two groups; one group is claiming to be elected under the provision of Co-operative Societies Act, whereas another group is claiming to be elected under Maharashtra Public Trust Act.

3. It is stated that respondent Nos. 1 to 9 in Writ Petition No. 504 of 2021 are claiming to be elected under the Co-operative Societies Act. It is alleged that respondent Nos. 1 to 9 with others tried to enter trust property forcibly and thus police authorities were required to intervene and submitted a proposal under

Section 145 of Code of Criminal Procedure to the learned Executive Magistrate, Jalgaon under Section 145 of the Code of Criminal Procedure. It is stated that the learned Executive Magistrate after hearing the parties, by its order dated 07.12.2018, has held the body elected under the Maharashtra Trust Act is in possession of the trust property and it's main office.

4. It is stated that the respondent Nos. 1 to 9 have filed Criminal Revision Petition against the order of the learned Executive Magistrate dated 07.12.2018. It is stated that in the said revision petition the petitioners were not made party. It is stated that the revisional Court has quashed the order and remanded the matter back to the learned Executive Magistrate without giving an opportunity of hearing to the petitioners.

5. I have heard the learned counsel for the petitioners and learned counsel for the contesting respondents.

6. The learned counsel for the petitioners submits that, the learned revisional Court ought not to have entertained the Criminal Revision petition in absence of the petitioners, being party to the said revision petition. It is submitted that the learned revisional Court remanded the matter back by setting aside the order passed by the learned Executive Magistrate, which was admittedly in favour of the petitioners. Accordingly, it is

submitted that, the order impugned needs to be set aside.

7. On the other hand, learned counsel for the contesting respondents submits that, the notice of proceeding under Section 145 of the Code of Criminal Procedure was not issued to some of the contesting respondents by the learned Executive Magistrate. It is submitted that there is already one order in favour of some of the contesting respondents under Section 145 of the Code of Criminal Procedure itself. It is submitted that the learned revisional Court in such circumstances directed the learned Executive Magistrate to hear all the parties. It is submitted that, in such circumstances, the present Writ Petition may not be entertained.

8. It is further submitted that petitioners in Writ Petition No. 521 of 2021 and 522 of 2021 though were not made party, they moved an application before the revisional Court that they be heard and accordingly they were heard. It is submitted that petitions therefore, be dismissed.

9. Admittedly, the petitioners were not made party to the revision petition. The petitioners in Writ Petition No. 521 of 2021 and 522 of 2021 moved an application and were heard is therefore of no consequences as admittedly the petitioners in Writ Petition No. 504 of 2021 were not made party and they were not

heard. When I declined to accept the contention of contesting respondents the learned counsel for contesting respondents submits that they be permitted to make the petitioners as party respondents to the Criminal Revision petition. In view of this, following order is passed.

O R D E R

- (i) The order passed by the learned Additional Sessions Judge, Jalgaon in Criminal Revision Application No. 7 of 2019 dated 26.03.2021 is quashed and set aside.
- (ii) The petitioners shall be made party to the Criminal Revision Application No. 7 of 2019.
- (iii) After the petitioners are made party, the learned Additional Sessions Judge, shall decide the revision application afresh in accordance with law.
- (iv) All the parties including petitioners shall appear before the revisional Court on 6th December, 2021.
- (v) The revisional Court shall endeavour to decide the Criminal Revision Application No. 7 of 2019 as early as possible and in any case within four months from 6th December, 2021.
- (v) The petitions are disposed of in above terms. In view of disposal of Writ Petitions, Criminal Application No. 1191/2021 does not survive and the same stands disposed of.

**(N. R. BORKAR)
JUDGE**