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

WRIT PETITION NO.6734 OF 2019

JAGDISH SHRIMANT DAMA & ORS.	..PETITIONERS
VS.	
SOMSHEKHAR ANNARAO PATIL & ORS.	..RESPONDENTS

Mr. Suhas S. Inamdar for the petitioners.

Mr. Ajit V. Alange for respondent No.1.

Mrs. V.S. Nimbalkar, AGP for State.

CORAM : M.S.KARNIK, J.

DATE : MARCH 9, 2021

P.C.:-

Heard learned counsel for the parties.

2. Learned counsel for the petitioners challenges an order passed by the Joint Charity Commissioner, Pune Region, Pune, allowing the revision filed by the respondent No.1. The order dated 30/1/2016 passed by the Deputy Charity Commissioner, Solapur in Inquiry No. 539 of 2015 is set aside. The revisional authority remanded the inquiry application No.539 of 2015 back to the Deputy Charity Commissioner for fresh and proper inquiry.

3. The petitioners made an application under Section 18 of the Maharashtra Public Trusts Act for registration of the trust. The Deputy Charity Commissioner by an order dated 30/1/2016 directed the trust to be registered in 'E' Category. It was the

contention of the respondent No.1. before the revisional authority that the aspect regarding registration of the trust needs to be reinquired as there are several defects in the order passed by the Deputy Charity Commissioner.

4. The petitioners filed a detailed reply to the revision application. By the impugned order the Joint Charity Commissioner was of the opinion that the Inquiry Application needs to be remanded back to the Deputy Charity Commissioner for fresh and proper inquiry. The impugned order reveals that none of the contentions raised by the petitioners in reply to the revision application are considered by the Joint Charity Commissioner. The Joint Charity Commissioner only referred to the 14 points framed by the Deputy Charity Commissioner for determination and without considering the response of the petitioners and virtually without assigning any reasons even briefly any reasons has set aside the order passed by the Deputy Charity Commissioner.

5. For instance it was the contention of the petitioners that the respondent No.1 herein had consented to the registration of the trust and he was present in the meeting. It was therefore the contention of the petitioners that the respondent No.1 is estopped from filing the revision. This aspect has not at all been considered by the Joint Charity Commissioner. No doubt, it is the contention of the respondent No.1 that his consent has been fraudulently obtained. If that is so it was for the Joint Charity Commissioner to

have considered the said objection.

6. Further, the Joint Charity Commissioner observed that no resolution of the Gram Panchayat is placed on record. In the response the petitioners have stated that Gram Panchayat is not at all concerned with the trust property and even this response has not been dealt with by the revisional authority.

7. As I find that none of the contentions raised by petitioners in response to the revision application has been dealt with by the revisional authority, it is necessary to remit the matter back to the Joint Charity Commissioner for reconsideration.

8. Learned counsel for the respondent No.1 vehemently tried to justify the impugned order passed by the Joint Charity Commissioner. According to him, the revisional authority has only remanded the matter back for re-inquiry and therefore no interference with the impugned order is warranted.

9. However, for the reasons mentioned herein before I am of the opinion that the revision needs to be remitted back to the Joint Charity Commissioner for a fresh decision. The impugned order is set aside. The Joint Charity Commissioner is requested to decide the revision within a period of 12 weeks from today after hearing all concerned. The petitioner as well as the respondent No.1 to appear before the Joint Charity Commissioner, Pune, on 23/3/2021, at 11.00 a.m. whereafter the further schedule may be fixed.

10. All contentions are kept open.

11. I may not be understood to have expressed any opinion on merits as regards any of the contentions of the parties.

12. The Writ Petition is disposed of accordingly.

Diksha
Rane

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signed by
Diksha Rane
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(M.S.KARNIK, J.)