

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11624 OF 2017

Mr. Rashid Suleman Oomer and Anr.

..Petitioners

Versus

Charity Commissioner,
Maharashtra State and Ors.

..Respondents

Mr. Vikramaditya Deshmukh a/w Ms. Krusha Maheshwari & Ms. Swati Chandan i/by ANB Legal, for the Petitioners.

Smt. Neha Bhide, "B" Panel Counsel for Respondent Nos.1 & 2 - State

Mr. Uzair Z. Kazi i/by YMK Legal, for Respondent No.3.

CORAM : UJJAL BHUYAN &
MADHAV J. JAMDAR, JJ.

DATE : 28th SEPTEMBER, 2021

P.C.

Heard Mr. Deshmukh, learned counsel for the petitioners:
Smt. Neha Bhide, learned AGP for respondent Nos.1 and 2; and Mr. Kazi,
learned counsel for respondent No.3.

2. On 01.09.2021, we had issued notice with an observation that on the next date an endeavour would be made to dispose of the writ petition.

3. Order dated 01.09.2021 sums up the controversy in question and we extract the relevant portion thereof :-

"7. Learned counsel for the petitioners has referred to the impugned order dated 19th June, 2017 and submits that application of the petitioners under section 41E read with

section 41A of the Maharashtra Public Trusts Act, 1950 was dismissed as not maintainable by the Joint Charity Commissioner, Greater Mumbai Region, Mumbai on the ground that the trust under consideration was transferred to the Wakf Board, Aurangabad vide notification dated 5th May, 2005. His submission is that this notification dated 5th May, 2005 is actually a corrigendum to resolution No.3 of the Maharashtra State Board of Wakf dated 9th March, 2005. Referring to the notification dated 7th October, 2008 of the Maharashtra State Board of Wakf, learned counsel for the petitioners submits that resolution No.3 dated 9th March, 2005 was cancelled and deleted by the State Board in its meeting held on 3rd April, 2008 which was confirmed on 27th May, 2008. Therefore, the corrigendum dated 5th May, 2005 automatically stood cancelled. That being the position matter be remanded back for a fresh decision on merit, he submits.”

4. Having considered the factual position as encapsulated in our order dated 01.09.2021 as extracted above, we are of the view that the matter should go back to the Joint Charity Commissioner, Greater Mumbai Region, Mumbai to decide the application of the petitioners filed under sections 41A and 41E of the Maharashtra Public Trusts Act, 1950 in accordance with law.

5. Accordingly, we set aside the impugned order dated 19.06.2017 and remand the matter back to the Joint Charity Commissioner, Greater Mumbai Region, Mumbai.

6. Let the decision be taken within the outer time limit of three months from the date of receipt of a copy of this order.

(16) -WP-11624-17.doc.

7. All contentions including jurisdiction are kept open.
8. Writ petition is disposed of.

BALAJI
GOVINDRAO
PANCHAL

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MADHAV J. JAMDAR, J

UJJAL BHUYAN, J