

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

WRIT PETITION NO.611 OF 2019

Sunil Damani Petitioner

Vs.

Sushil Jalan & Ors. Respondents

Mr. Sanjay Jain a/w Nakul Jain, Neha Shah i/by Maniar Srivastava Associates for Petitioner.

Mr. Karl Tamboly a/w Anuj Desai i/by Abhishek Prabhu for Respondent Nos. 1,2,3 and 7.

Mr. Amok Kumeria i/by ALMT Legal for Respondent No. 5.

Coram : NITIN W. SAMBRE, J.

Date : 4th MARCH, 2021

P.C.:

1. The order impugned is dated 3rd December, 2018 passed on Chamber Summons No. 1681 of 2018 by the City Civil Court, Greater Mumbai in Charity Application No. 14 of 2016.

2. The Petitioner has objected to Section 22 of Maharashtra Public Trusts Act proceedings. The said Change Report proceedings are

now pending adjudication before the Court, before whom the Chamber Summons is taken out with an intention to produce on record certain documents, which is rejected vide impugned order.

3. Learned counsel for the Petitioner and the Respondents are in agreement that the documents, which are sought to be produced by way of Chamber Summons were not in existence when the Change Report proceedings were decided. In that view of the matter, it can be inferred that the documents, which are sought to be produced were not available for deciding the issue before the Joint Assistant Charity Commissioner or the Assistant Charity Commissioner.

4. In the aforesaid backdrop, the observations made in Paragraph 7 (incorrect no. at page 6 of the of the impugned order), apparently appears contrary to the record.

5. As far as the issue of production of documents are concerned, in my opinion in the aforesaid background, it will be appropriate for the City Civil Court to look into the documents, which

are sought to be produced as to whether they are necessary or germane for the cause to be decided. The Court need not go into the details of the said proceedings, however, so as to facilitate whether such documents are relevant for deciding the Change Report proceedings pending before it, the Petitioner is directed to produce the details of such documents in the tabular form by numbering said documents and also describing relevancy of the said documents for deciding the issue.

6. The Respondents herein shall as such after receipt of the same, shall submit their objections to the said Chart submitted by the Petitioner. The learned City Civil Court is required to take into account the relevancy and not the admissibility or otherwise of the said document, so as to consider the prayer in the Chamber Summons, which be decided in accordance with law.

7. As such, the order impugned in the aforesaid backdrop dated 3rd December, 2018 passed by the City Civil Court, Greater Mumbai is hereby quashed and set aside.

8. Chamber Summons stood restored to file of the City Civil Court, who is directed to decide the same in the backdrop of the aforesaid submissions.

9. The counsel for the Petitioner submits that the aforesaid application for submitting the Chart and documents will be filed within four weeks and four weeks thereafter, the Respondent also agree to tender their response. As observed hereinabove, the learned City Civil Court will be at liberty to deal with the prayer of the Petitioner only by referring to the prima facie relevancy of the documents, which are sought to be produced.

10. The Petition stands allowed in above terms.

(NITIN W. SAMBRE, J.)