

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4856 OF 2021

SATISHCHANDRA SURYAKANT MANJREKAR
VERSUS
NANDINI NARAYAN PURANIK

...
Advocate for Petitioners : Mr. V.C. Patil (Ashtekar) h/f. Mr. U.B.
Bondar

Advocate for Respondent: Mrs. Kalpana Kulkarni Sonpawale

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 7th JULY, 2022

ORDER :

. The petitioner is aggrieved by the order passed by the Assistant Charity Commissioner-1, Aurangabad Division, Aurangabad dated 06.01.2021, below Exhibit-33 in Inquiry No. J-2/32/2018, thereby rejecting the application filed by the petitioner for setting aside order of closure of his evidence.

2. Inquiry is initiated at the instance of the petitioner on 21.12.2018. The evidence of the petitioner was closed and the matter was posted for evidence of other side. Before the evidence of other side began, the petitioner filed application Exhibit- 33 contending that there are total five matters pending before the authority. The petitioner had filed an application to

club those matters. The same was rejected and the rejection order is confirmed up to this Court. Therefore, the evidence of the petition remained to be given. The petitioner was under impression that common evidence was to be given in all the matters, however, since the matters were not clubbed, each matter will have to be conducted separately and evidence will have to be led in each matter. The petitioner therefore prayed that the order passed below Exhibit-1 dated 21.12.2018 closing the evidence of the petitioner be set aside and the petitioner may be permitted to lead evidence in the interest of justice.

3. The respondent resisted said application contending that the respondent/original objectors have closed their evidence and argued the matter and the matter is pending for decision. The application is filed after a period of 1 year 5 months from the date of order. She, therefore, prayed for rejection of said application. By the impugned order, application is rejected.

4. Heard the learned advocate for the petitioner and learned advocate for the respondent.

5. Admittedly, five proceeding are pending before the Assistant Charity Commissioner. Though, the petitioner requested to club all five matters, said request is rejected and said rejection is confirmed up to this Court. In this view of the matter, reason given by the petitioner that he was under *bonafide* impression that common evidence will have to be given in all the matters appears to be probable and same is liable to be accepted in the facts of the present case. The petitioner needs to be given reasonable and fair opportunity to lead evidence in support of his case. Since the impugned order denies the same, it cannot be sustained. The impugned order is contrary to the principles of natural justice.

6. Considering the fact that the petitioner has belatedly moved application, appropriate cost is liable to be imposed on the petitioner. Hence, the following order:-

ORDER

- I) The impugned order dated 06.01.2021 passed by Assistant Charity Commissioner-1, Aurangabad Division, Aurangabad, below Exhibit-33 in Inquiry No. J-2/32/2018, is hereby quashed and set aside.

- II) Application Exhibit-33 is allowed, subject to the petitioner paying cost of Rs. 5,000/- to the respondent before the Assistant Charity Commissioner, Aurangabad.
- III) Since the matter is old, the Assistant Charity Commissioner, Aurangabad shall complete the hearing and decide the matter on merit within a period of six months from receipt of copy of this order.

[NITIN B. SURYAWANSHI, J.]