

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

920 WRIT PETITION NO.11137 OF 2021

**DILIP NARAYAN KULKARNI (BHALERAO)
VERSUS
SATISH CHANDRAKANT JOSHI AND OTHERS**

...
Advocate for Petitioner : Mr. Gaurav L. Deshpande
Advocate for Respondent Nos.1, 7, 10 to 13 : Mr. K.F. Shingare
Advocate for Respondent Nos.14 & 15 : Mr. Y.D. Kale
...

CORAM : SANDEEP V. MARNE, J.

DATE : 15-11-2022

PER COURT :

. By this petition, the petitioner has challenged the order dated 31.08.2021 passed by Jt. Civil Judge Senior Division, Vaijapur on application below Exh.22 in Regular Civil Suit No.60 of 2017 by which the application filed by defendant nos.4 to 13 to set aside *ex parte* order has been allowed.

2. The only objection raised by Mr. Deshpande, the learned counsel for the petitioner to the order dated 31.08.2021 is that the trial Court has treated the defendant nos.4 to 13 as office bearers of the trust. He has made strenuous submissions before this Court to demonstrate that they are not the office bearers of the trust.

3. Mr. Kale, the learned counsel for respondent nos.14 and 15 opposes the petition.

4. In my opinion, whether the defendant nos.4 to 13 are office bearers of the trust or not is a irrelevant factor for the purpose of deciding the application for setting aside the *ex parte* order. It is admitted position that after passing of the *ex parte* order on 14.09.2017 till 16.07.2021 when application was filed by defendant nos.4 to 13 to set aside *ex parte* order, the suit had not progressed further and the trial was yet to commence. In my opinion, therefore the trial Court has rightly allowed the application filed by the defendant nos.4 to 13 and has set aside the *ex parte* order.

5. Mr. Shingare, the learned counsel for respondent nos.1, 7, 10 to 13 submits that after passing of the impugned order dated 31.08.2021, the trial in the suit has progressed. This is yet another ground why the interference by this Court in the impugned order is not warranted.

6. The writ petition being devoid of merits is liable to be dismissed and the same is dismissed. However, the finding recorded by the trial Court to the effect that defendant nos.4 to 13 are office bearers of the trust may not be treated as final and all questions in this regard are left open.

(SANDEEP V. MARNE, J.)