

September 26, 2022.

**IN THE HIGH COURT OF JUDICATURE AT BOMAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11247 OF 2022**

Shri. Dhairyasheel Shivajirao Bhosale

and Ors.

...Petitioners

V/s.

Shri. Pravin Shamrao Patil and Ors.

...Respondents

Mr. S.S. Patwardhan i/by. Mr. Bhushan Mandlik,

Advocate for the petitioners.

Mr. Prashant Bhavake, Advocate for the respondents no.1
to 3.

Mrs. Vaishali Nimbalkar, AGP for State-respondent no.4.

CORAM : SANDEEP K. SHINDE, J.

MONDAY, 26TH SEPTEMBER, 2022.

P.C. :

1. Heard Mr. Patwardhan, learned Counsel for the petitioners, Mr. Bhavake, learned Counsel for respondents no.1 to 3 and Ms. Nimbalkar, learned AGP for State.

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2. Petitioners are the lifetime trustees of petitioner no.12-Trust registered under the provisions of the Maharashtra Public Trusts Act, 1950 ("said Act" for short). In the Application No. 6/2022 dated 24th May, 2022 moved by respondents no.1, 2 and 3, the Joint Charity Commissioner, Kolhapur Division, Kolhapur, in exercise of powers under Section 41-E of the Act, vide order dated 25th May, 2022 directed the petitioners not to take policy decision or to alienate, movable or immovable property of the Trust or to make any bank transaction or operate bank account without permission, till the final decision or further orders. Simultaneously, suo-moto proceedings under Section 41-D of the said Act, have been initiated. Whereafter, petitioners' appeared and apprised the Joint Charity Commissioner, that order dated 25th May, 2022 restraining Trust from operating Bank Account, has brought the Trust to halt and thus requested to expend around Rs.20,00,000/- per month, required for the day-to-day administration of the Trust. Para-3 of the application, set outs the particulars of minimum monthly expenditure the Trust incurs and accordingly sought modification of order dated 25th May, 2022. On 3rd August, 2022 the petitioners moved an application and requested the

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Charity Commissioner for expeditious hearing of their application, seeking modification. The learned Joint Charity Commissioner, vide order dated 3rd August, 2022 permitted Trust to expend Rs.20,00,000/- per month, upon certain terms and conditions, as set out therein. Learned Joint Charity Commissioner, permitted Trust to operate Account under the authority and signatures of Mr. Rajesh Dudhal and Mr. M.K. Naik ("Authorised Officers" for short) alongwith authorised trustee/signatory. In the way, instructions were issued to the H.D.F.C. Bank, Murgud, Taluka-Kagal, District-Kolhapur. Thus, Trust is permitted to operate the Bank Account and expend Rs.20,00,000/- per month, subject to the prior approval of the Authorised Officers, appointed by the Office of the Charity Commissioner. Petitioners' grievance is that, the impugned order causes inconvenience and hinders smooth functioning of the Trust, in as much as, the Trust has to obtain prior permission for spending amount under each head, irrespective of amount and for that purpose, have to repeatedly, visit the office of the Charity Commissioner.

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3. In the above circumstances, Mr. Patwardhan, learned Counsel for the petitioners submitted that, Trust may have to incur around Rs.22,00,000/- per month. Mr. Patwardhan, on instructions submitted that the Trust shall expend that amount, as much as, is feasible, by drawing cheques and/or by on-line transfers. However, having regard to the kind of expenditure, sometimes the Trust may have to spend in cash. Mr. Patwardhan, on instructions submitted that, it would be easy to manage the affairs smoothly, if the Trust is permitted to spend maximum amount of Rs.22,00,000/- per month, without prior approval of Authorised Officers appointed by the Joint Charity Commissioner, yet Trust shall render true Account.

4. In my view, Condition No. (8) of order dated 3rd August, 2022 is onerous, in the sense that, practically, it may not be possible for the Trust to seek prior approval of the Authorised Officers for each expenditure. Instead it would be appropriate, if the Trust is permitted to withdraw maximum Rs.21,00,000/- from its' Account No. 25451450000012, maintained with the H.D.F.C. Bank, Murgud, Taluka-Kagal, District-Kolhapur, without prior

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approval and without signatures of the Authorised Officers. However, under no circumstances, the Trust shall withdraw, the amount of Rs.21,00,000/- per month and shall render true and correct Accounts to the Authorised Officers, every month, till the enquiry is concluded. In that view of the matter, the Joint Charity Commissioner, Kolhapur shall dispose of Application No. 6/2022, preferably within three months from the date on which the order is brought to his notice. Accordingly, the order dated 3rd August, 2022 stands modified in the above terms.

5. Needless to say, that the Charity Commissioner shall decide the respondent's Application No.6/2022 in accordance with law and without being influenced by the order of this Court. Thus, the following order :

ORDER

(1) The petition is partly allowed.

(2) The petitioners' Trust is permitted to withdraw a sum of Rs.21,00,000/- per month from its Accounts maintained with the

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**H.D.F.C. Bank, Branch-Murgud, Taluka-Kagal,
District-Kolhapur.**

(3) The Branch Manager, H.D.F.C. Bank shall permit the Trust to withdraw the said amount of Rs.21,00,000/- in aggregate for a calendar month from 1st October, 2022 without insisting on the signatures of the Authorised Officers appointed by the Joint Charity Commissioner in terms of the order dated 3rd August, 2022.

(4) The petitioners shall render true and correct Accounts of the amount expended by them for day-to-day administration of the Trust.

(5) The monthly Accounts shall be rendered and filed in the office of the Charity Commissioner within a week i.e. in the first week of succeeding month.

(iv) The petitioners' shall file an Undertaking in the Office of the Charity Commissioner,

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Kolhapur that it shall maintain true and correct accounts of the amount and shall not withdraw amount exceeding Rs.21,00,000/- per month.

6. With the above directions, the petition is disposed of.

(SANDEEP K. SHINDE, J.)