

V/s.

Mr. Siddharth Wakankar a/w. Ms. Aishwarya Bapat for petitioner.

CORAM : VALMIKI SA MENEZES, J.

DATED : DECEMBER 21, 2022.

P.C. :

. This petition impugns the judgment and order dated 5th January 2017 passed by the learned Assistant Charity Commissioner, Sindhudurg on an application filed by the petitioner / original applicant seeking relief of interim injunction in Enquiry Application No. 271 of 2016 lodged by the petitioner before the said authority.

2. Enquiry Application No. 271 of 2016 was filed by the petitioner before the Assistant Charity Commissioner, Sindhudurg under the provision of section 41 (A) of 'The Maharashtra Public Trusts Act', 1950, challenging the change of name of the Trust as well as acts

of the respondent which the petitioner claims were in violation of the approved Constitution of the Trust. During the pendency of the Enquiry Application No. 271 of 2016, the petitioner filed an application for interim relief seeking an order of restrain on the respondents to injunct them for implementing the new constitution of the Trust and for direction to the respondent trustees to conduct the business of the Trust in accordance with the old Constitution which had been approved in November 2002.

3. After hearing the interim application, the learned Assistant Charity Commissioner, Sindhudurg was pleased to reject the application for interim relief vide order dated 5th January 2017. That order which has been challenged in the present petition, claiming that the petitioner has no other alternate remedy under the 'The Maharashtra Public Trusts Act', 1950.

4. Heard learned counsel for the parties and with their consent the petition is heard finally at the stage of admission.

5. Perused the record of the petition. It appears that from the date the interim application was rejected by the impugned order dated 5th January 2017, the original Enquiry Application No. 271 of 2016 has remained pending before the Assistant Charity Commissioner, Sindhudurg and no orders have been passed thereon till date. During the course of the hearing of the petition, it transpired that besides the pendency of Enquiry Application No. 271 of 2016, there are several more connected applications pending, which include applications to

get the name of subsequent trustees changed in the original certificate issued to the trust; additionally, there is also an application pending before the Assistant Charity Commissioner, Sindhudurg for orders to accept the amendment sought to be carried out to the Constitution of the Trust.

6. Considering all these facts, there would be no purpose served in deciding the interim application which has already been rejected. It would be advantageous to all the parties before the Assistant Charity Commissioner, Sindhudurg, if the Enquiry Application No. 271 of 2016 filed under section 41(A) of the Act be disposed of on its own merits to bring the controversy between the parties to an end.

7. Accordingly, the Assistant Charity Commissioner, Sindhudurg is hereby directed to take up Enquiry Application No. 271 of 2016 pending before him for disposal and as far as possible endeavour to complete its hearing and dispose of the same within a period of six months from the receipt of this order.

8. Needless to say that the Assistant Charity Commissioner, Sindhudurg to dispose of the Enquiry Application No. 271 of 2016 uninfluenced by any of the observations or findings that may have been rendered while passing order dated 5th January 2017 in the interim application.

9. All contentions of the parties with regard to the Enquiry Application No. 271 of 2016 are kept open. With the above

observations, the present petition is disposed of. Rule is made absolute in the above terms. No costs.

(VALMIKI SA MENEZES, J)