

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7532 OF 2021**

Shri. Markandeya Mandir Trust Through ...Petitioner
Chairman/Authorized Representative
Sudhakar R. Pathak

V/s.

Ramesh Dhondiram Jople & Anr. ...Respondents

Mr. Satyajeet P. Dighe, advocate for the Petitioner.
Mr. S.H. Kankal, AGP for the Respondent-State.

**CORAM : MADHAV J. JAMDAR, J.
DATED : 19th July, 2022**

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P.C. :

1 Heard Mr. Satyajeet P. Dighe, learned Counsel appearing
for the Petitioner.

2 In this Petition filed under Article 227 of the Constitution
of India, the Petitioner which is a Public Charitable Trust registered
under the provisions of Bombay Public Trust Act, 1950 has challenged
an order dated 20/8/2021 passed by the Assistant Charity
Commissioner, Nashik Region, Nashik below Exh. 8 in Change Report
Application No. 2643 of 2019.

3 Mr. Dighe submitted that the Petitioner Trust filed Change Report Application No. 2643 of 2019 before Assistant Charity Commissioner for approval of change of trustees. When that application was being heard and at the final stage, the Respondent No. 1 filed an intervention application seeking that he be heard in the said change report and that application has been allowed by the impugned order. Mr. Dighe, learned Counsel submitted that the respondent No. 1 cannot be held to be the "**person having interest**" in the trust and therefore, the Assistant Charity Commissioner has committed illegality in allowing the intervention application. He submitted that if such application is allowed, then several persons will file intervention applications and the functioning of the Public Trust will be hampered.

4 Perusal of the impugned order shows that learned Assistant Charity Commissioner has taken into consideration provisions of section 73A of the Maharashtra Public Trust Act, 1950 and section 2(10) of the said Act.

5 Section 2(10) of the said Act defines "person having interest" which reads as under:

(10) “person having interest ”[includes]—(a) in the case of a temple, person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple, or who is entitled to partake or is in that habit of partaking in the distribution of gifts thereof,.”

Section 73A of the said Act empowers Inquiry Officer to join persons as party to proceedings. Section 73 A reads as under :

“Section 73A Power of Inquiry Officer to join persons as party to proceedings. -In any proceedings under this Act, any person having interest in the public trust may be joined as a party to such proceedings on an application made by such person on such terms and conditions as the officer holding the inquiry may order.”

6 Learned Assistant Charity Commissioner has considered the relevant provisions of the Maharashtra Public Trust Act as well as the contention raised by the Respondent No. 1 in his intervention application. The learned Charity Commissioner has opined that presence of intervener before the court in the pending proceeding is necessary for effective and complete adjudication of the matter.

7 Mr. Dighe, learned Counsel appearing for the petitioner has not pointed out anything to show that the contention raised in the intervention application regarding Respondent No. 1 having interest in the temple is not tenable. A possible view of the matter has been taken

by the Assistant Charity Commissioner and therefore, no interference under Article 227 of the Constitution of India by this Court is warranted. However, it is clarified that the merits of the Change Report as also the merits of the objections raised by the Respondent No. 1 are concerned, contentions in that behalf are specifically kept open.

8 At this stage, Mr. Dighe states that Change Report Application is pending since 2019 and therefore, some time limit be granted for disposal of the Change Report Application. As Change Report Application is pending since 2019, the Assistant Charity Commissioner, Nashik Region, Nashik is requested to dispose of the same within a period of 6 months from receipt of this order.

9 The Writ Petition is disposed of in the above terms.

(MADHAV J. JAMDAR, J.)