

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4441/2022

Shri Rakesh Prabhakar Dadwe

...Versus...

Joint Charity Commissioner, Near G.P.O., Civil Lines, Nagpur – 01 and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri V.K. Paliwal, Advocate for petitioner
Shri N.R. Rode, AGP for respondent no.1

CORAM : AVINASH G. GHAROTE, J.

DATE : 01/08/2022

1. Heard Shri V.K. Paliwal, learned counsel for the petitioner and Shri N.R. Rode, learned Assistant Government Pleader for the respondent no.1.

2. The petition challenges the order dated 01/06/2022 passed by the learned Joint Charity Commissioner, Nagpur below Exh.22 in the proceedings initiated by the respondents under Section 41-A r/w 41-E of the Maharashtra Public Trusts Act, 1950, by which it was claimed that the present petitioner should not create a third party interest in the property, which is a subject matter of the proceedings and the learned Joint Charity Commissioner by the impugned order has restrained the petitioner, who is the respondent no.2 in the proceedings before the Charity Commissioner in Application

No.160/2018 (pg.13), from creating a third party interest till the decision of the application under Section 41-A r/w 41-E of the Maharashtra Public Trusts Act.

3. Shri Paliwal, learned counsel for the petitioner submits that the respondent nos.2 and 3, who had initiated the proceedings before the learned Charity Commissioner have no locus whatsoever, as they are not related with the Trust and therefore, they were incapable of initiating the proceedings, on which ground the application could not have been granted. That however is a ground, which is to be decided by the learned Joint Charity Commissioner in the proceedings pending before him and in case he comes to the conclusion that the respondent nos.2 and 3 have no locus, it is open for him to dismiss the application.

4. Without an adjudication as to this plea, the impugned order cannot be set aside in this proceeding, more so, when the petitioner himself in his reply (para 3/pg.41) has stated that he has no intention to alienate the property in question, which is claimed to be the Trust property. That being the position, I am not inclined to interfere with the impugned order. The writ petition is accordingly dismissed. No order as to costs.

(AVINASH G. GHAROTE, J.)