

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13272 OF 2022

Murlidhar Shrinivasrao Kulkarni

...Petitioner

Versus

Chandrakantrao Rangnathrao Mahajan
And Others

...Respondents

Mr. V.Y. Bhide, Advocate for the petitioner.

Mr. S.N. Morampalle, AGP for State.

Mr. C.V. Dharurkar, Advocate for respondents No. 1 and 2.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 8th MARCH, 2023

ORDER :

1. By this petition filed under Article 227 of the Constitution of India, petitioner challenges order dated 09.11.2022 passed below Exhibit-48 in Change Report Inquiry No. 103/2006 passed by learned Assistant Charity Commissioner, Osmanabad.

2. Said change report inquiry is pending before the learned Assistant Charity Commissioner, Osmanabad at the instance of respondent No. 1. The petitioner has raised objection in the said inquiry.

3. After the evidence of reporting trustee is over, petitioner moved application Exhibit-48 seeking permission to examine his two witnesses i.e. Raosaheb Kulkarni and Ashok Joshi. Said application is rejected by respondent No. 3 observing that it is the duty of reporting trustee to prove his case, therefore, prayer claimed is not tenable.

4. Heard the learned advocate for the petitioner, learned advocate for respondents No. 1 and 2 and learned Assistant Government Pleader for State. Perused the documents on record.

5. Learned advocate for respondents No. 1 and 2 strenuously opposed the prayer of the petitioner contending that witnesses which the petitioner is seeking to examine are in respect of change report inquiry of 2003, at that time, petitioner was Secretary. He submits that it has lost its relevance since so may change report inquiries are pending and it is the latest change report which is significant.

6. Be that as it may, fact remains that all the inquiries are pending before Assistant Charity Commissioner, Osmanabad,

and he has to decide them on merits. In this view of the matter, opportunity should not be denied to the petitioner to examine his two witnesses in support of his case. In the interest of justice, writ petition deserves to be allowed and same is hereby allowed.

7. Impugned order dated 09.11.2022 passed below Exhibit-48 in Change Report Inquiry No. 103/2006 by learned Assistant Charity Commissioner, Osmanabad, is hereby quashed and set aside.

8. Application Exhibit-48 is allowed. It is informed that next date before the Assistant Charity Commissioner, Osmanabad, is 24.03.2023. As far as possible the petitioner shall examine his two witnesses on that date and they shall be cross examined by the respondent on the same day, on which they are examined.

9. The enquiry shall be finally decided as per the time stipulated by this Court earlier.

[NITIN B. SURYAWANSHI, J.]