

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.1391 OF 1996

Masoba Devalaya Azad Mandal ... Appellant

V/s.

Devasthan Management Committee
& Ors. ... Respondents

Mr. Kush M. Lahankar i/by Mr. Abhijit M. Adagule for
the appellant.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 23, 2023

P.C.:

1. The first appeal arises out of judgment and order dated 10th January 1996 dismissing Miscellaneous Civil Application No.23 of 1987 confirming order passed by the Deputy Charity Commissioner in Appeal No.63 of 1978. Respondent No.1 had filed application under section 22A of the Maharashtra Public Trust Act, 1950 to include said property as property of the Trust. The appellant objected to the said application submitting that disputed property belongs to the appellant/Trust.

2. The Assistant Charity Commissioner in an inquiry under section 22A concluded that the disputed property belongs to the applicant. The appellant challenged the said judgment and order by filing Appeal No.63 of 1978 before Deputy Charity

Commissioner which was dismissed on 30th April 1984. Aggrieved thereby, the appellant filed Miscellaneous Civil Application No.23 of 1987 which has been dismissed by the impugned order.

3. Learned advocate for the appellant submitted that the scope of inquiry under section 22A is restricted to ascertain whether the property belongs to Trust, or not. Inquiry as to title of the property cannot be held by the Charity Commissioner either under section 22A or under section 19 of the Maharashtra Public Trusts Act, 1950.

4. Perusal of the impugned order indicates that the District court in paragraph 70 observed that if the appellants have any right, title and interest over the suit property, same can be agitated by knocking doors of the Civil Court.

5. Even otherwise, it is well settled principle of law that issues of title are decided by the Civil Court exclusively. .If the appellant claims title over the disputed property, it will be open for the appellant to agitate such rights before the Civil Court.

6. No other contentions are raised.

7. The first appeal is, therefore, disposed of with clarification as above. No costs.

(AMIT BORKAR, J.)