



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15481 OF 2023

Pravin Shamrao Patil & Ors.	...Petitioners
Versus	
Joint Charity Commissioner, Kolhapur Division & Ors.	...Respondents

Mr. Akhil Kupade i/b. Mr. Prashant Bhavake, for the Petitioners.

Mrs. V. S. Nimbalkar, AGP for the State/Respondent No.1.

Mr. Sukand Kulkarni, for Respondent No.3 (through Video Conferencing).

Mr. Sachin Thorat, for Respondent Nos.4 to 12.

CORAM : MADHAV J. JAMDAR, J.

DATED : 22nd DECEMBER 2023

P.C. :

1. Heard Mr. Kupade, learned Counsel appearing for the Petitioners, Mrs. Nimbalkar, learned AGP appearing for the State/Respondent No.1, Mr. Kulkarni, learned Counsel appearing for Respondent No.3 and Mr. Thorat, learned Counsel appearing for Respondent Nos.4 to 12.

2. Mr. Kupade, learned Counsel appearing for the Petitioners

states that all the Respondents are served.

3. The Petitioners are challenging the order dated 2nd August 2023 passed by the Respondent No.1-learned Joint Charity Commissioner, Kolhapur Division, Kolhapur by which, Application dated 1st August 2023 filed below Exhibit-106 by the Petitioners under Section 73A of the Maharashtra Public Trusts Act (“hereinafter referred to as the “**said Act**”) read with Order I Rule 10 of the Code of Civil Procedure to add the Petitioners as party to the said proceedings initiated under Section 41(D) of the said Act has been rejected. Perusal of the impugned Order shows that the Application seeking their impleadment as party to the said proceeding under Section 41(D) is rejected and it is directed that they can be called as witnesses.

4. The record of the case shows that only Respondent No.3 has filed objection to the said Application. Mr. Sukand Kulkarni, learned Counsel appearing for the Respondent No.3 on instructions states that the Respondent No.3 is withdrawing the said objection. He further states that the Respondent No.3 has no objection to implead the Petitioners as parties to the said proceedings.

5. Learned Counsel appearing for Respondent Nos.4 to 12 on

instructions submitted that, if the Court extends the time limit granted by earlier order to complete the proceedings then, they have no objection to implead the Petitioners as party Respondents.

6. The Petitioners filed the complaint with the learned Joint Charity Commissioner on 9th August 2021 regarding functioning of the trust and thereafter, it is admitted position that the action under Section 41(D) has been initiated on the said complaint. It is settled legal position that a necessary party is one without whom no order can be effectively made and a proper party is one whose presence is necessary for a complete and final decision of question involved in the proceedings. As the proceedings under Section 41(D) of the said Act are initiated pursuant to the complaint of the Petitioners, it is clear that the Petitioners are either the necessary parties or at least the proper parties.

7. The Respondent No.1-learned Joint Charity Commissioner has filed detailed affidavit. However, the issues raised in the said affidavit are not concerning whether the Petitioners are necessary or proper parties.

8. Accordingly, the impugned order dated 2nd August 2023 passed by the Respondent No.1-learned Joint Charity Commissioner is

quashed and set aside. The said Application filed below Exhibit-106 is allowed. The Petitioners are directed to be impleaded as parties to the said proceedings filed under Section 41(D) of the said Act. The same be done within a period of one week from today. The Petitioners to file their say on or before 5th January 2024.

9. In view of this order, time granted by order dated 25th September 2023 passed in Writ Petition No.8451 of 2023 with connected Writ Petitions to dispose of Application No.1 of 2022 filed under Section 41(D) of the said Act is extended till **30th April 2024**.

10. The Writ Petition is disposed of in above terms with no order as to costs.

11. All the parties to co-operate with the Respondent No.1-learned Joint Charity Commissioner for disposal of the said proceedings in time bound manner and parties shall not take unnecessary adjournments.

[MADHAV J. JAMDAR, J.]