

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.9193 OF 2022

Kamalkant Rambahal Yadav ...Petitioner
vs.
The Assistant Charity Commissioner,
Greater Mumbai Region, Mumbai and Others ...Respondents

Mr. Kezer Kharawala i/b. Lex Juris, for the Petitioner
Mr. S.D. Rayrikar, AGP for the State.
Mr. Swaraj Jadhav, for Respondent Nos. 2 and 8.
Mr. Suresh Sabrad, for Respondent Nos. 20 to 22.

CORAM : N. J. JAMADAR, J.
DATE : MARCH 09, 2023

P.C.:

1. Heard the learned counsel for the parties.
2. The challenge in this petition is to an order passed by the Assistant Charity Commissioner, Greater Mumbai Region, Mumbai on an application bearing No. ACC/V/12/2021 in exercise of the powers of section 41 of the Maharashtra Public Trust Act, 1950 (the Trust Act) allowing the persons whose names were recorded in the Schedule I of the trust to operate the bank accounts of the trust “Yadav Sangh, Mumbai” subject to certain conditions.
3. It is a common ground that Mr. Achhairbar Yadav, one of the three persons entrusted by the Assistant Charity Commissioner to operate the bank account, has passed away.

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(This is a corrected order as per Speaking to Minutes order dated 20-03-2023)

4. The respondent Nos. 21 and 22 had preferred Writ Petition No. 450 of 2023 assailing the order passed by the Assistant Charity Commissioner rejecting the prayer for substituting the name of the deceased person.

5. By an order dated 6th February, 2023 the Division Bench directed the Assistant Charity Commissioner to pass order allowing Misc. Application preferred by respondent Nos. 21 and 23.

6. The situation which thus obtains is that Mr. Ajaykumar Yadav, Mr. Girijashankar Yadav and Mr. Lalbahadur Yadav are now permitted to operate the bank account of the trust.

7. The learned counsel for the petitioner submitted that despite an order passed by this Court on 22nd October, 2019 in Writ Petition No. 7829 of 2017 the Assistant Charity Commissioner has not decided the eight Change Reports pending on the file of Assistant Charity Commissioner. It is a grievance of the petitioner that the change reports which have been filed are not in conformity with the change envisaged by the constitution of the trust. The learned counsel prayed for appointment of an administrator to manage the affairs of the trust.

8. Since the change reports are pending and its is well recognized that the acceptance of the change report is not a pre-condition for the enforcement of the change, the prayer to appoint

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an administrator can not be acceded to. Moreover, since at the heart of the matter is the legality and validity of the change reports, which are awaiting adjudication, it would be expedient to direct the Assistant Charity Commissioner to decide the change reports as expeditiously as possible and preferably within a period of three months from today.

9. Ordered accordingly.

10. The parties shall render requisite cooperation for the disposal of the change reports by the learned Assistant Charity Commissioner.

11. With the aforesaid clarification and directions, the petition stands disposed.

(N. J. JAMADAR, J.)