

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5871 OF 2016
WITH
CIVIL APPLICATION NO. 2030 OF 2017

The Board of Trustees of Worli Gopchar & ... Petitioners
Bhoye Samsthan & Ors.

Versus

Kishor Kamlakar Mantri (Decd.) & Ors. ... Respondents

And

Kishor Kamlakar Mantri (Decd.) & Ors. ... Applicants

Mr. I.J. Nankani a/w. Mr. H.S. Khokhawala and Ms. Bhakti Jain i/b.
Nankani & Associates for the petitioners.

Mr. Alankar Kirpekar i/b. Mr. Susmit S. Phatale for the applicants in
CAW/2030/2017 and for respondents in WP/5871/2016.

CORAM: G. S. KULKARNI, J.
DATED: 16 February, 2023

P.C.

1. I have heard learned counsel for the parties on the present proceedings. After some discussion on the proceedings, learned counsel for the parties are agreeable that the petition can be disposed of in terms of the following order:

- (i) The impugned order dated 23 February, 2016 passed by the Charity Commissioner, Mumbai does not take into account the orders passed by this Court in Writ Petition No. 5871 of 2016 (Exhibit 'D') in deciding the issue as the jurisdiction of the Charity Commissioner over the petitioner-trust. The impugned

order passed by the Charity Commissioner is set aside by consent of the parties.

(ii) The proceedings are remanded to the Charity Commissioner for a fresh decision to be taken after considering all materials and the said order passed by this Court. The Charity Commissioner shall decide the issue of jurisdiction as expeditiously as possible and within a period of three months from the date of first appearance of the parties by presenting this order passed on the proceedings.

(iii) Till the Charity Commissioner passes appropriate orders deciding the issue of jurisdiction, the arrangement as set out in the interim order dated 15 June, 2016 passed by this Court in the present petition shall continue to operate, however, subject to the modification in paragraph 6 thereof that the petitioners would not transfer any of the immovable properties of the Trust till the issue is decided by the Charity Commissioner and would continue to furnish accounts to the Charity Commissioner on quarterly basis and furnish copies thereof to respondent nos.1 to 8.

(iv) In the event of any extraneous circumstances, liberty to the parties to apply.

(v) All contentions of the parties on the issues which would now be decided by the Charity Commissioner is kept open.

(vi) By setting aside the impugned order, this Court has not expressed any opinion on the rival contentions which would would be urged before the Charity Commissioner.

2. Disposed of in the above terms.

3. In view of disposal of Writ Petition, Civil Application would not survive and the same is accordingly disposed of.

G. S. KULKARNI, J

corrected as per speaking to minutes order dated 03.03.2023.