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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 450 OF 2023**

Jagdish Prasad Yadav & Ors ...Petitioners
Versus
The State of Maharashtra & Ors ...Respondents

**Mr Suresh Sabrad, with Amey Sawant, Graey Saldanha, for the
Petitioner.**
Mrs AA Purav, AGP, for the Respondent-State.

**CORAM G.S. Patel &
Dr Neela Gokhale, JJ.
DATED: 6th February 2023**

PC:-

1. The only prayer is for a direction to the 2nd Respondent, the Assistant Charity Commissioner, Mumbai to hear and decide the 2nd and 3rd Petitioners Miscellaneous Application No. 70 of 2022. The complaint in this Writ Petition is that the 2nd Respondent has not heard and decided Miscellaneous Application No. 70 of 2022 in Application No. 12 of 2021. A copy of the Miscellaneous Application is annexed at page 46 at Exhibit "C". It is not even remotely controversial. The 2nd Respondent, the Assistant Charity Commissioner, Mumbai had named three persons as trustees by an order of 14th July 2022 in Application No. ACC/5/12/2021 under Section 41A of the Mumbai Public Trusts Act 1950. One of those

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persons was Akshaibar Singh Yadav. There were two others, namely the two Applicants Ajaykumar S Yadav and Girjashankar Yadav. They are trustees of the present Respondent No. 3 trust, the Yadav Sangh. This runs the Yogiraj Shree Krishna Vidyalaya at Shri Krishna Nagar, Safed Pool, Andheri Kurla Road, Mumbai 400 072. The school is an English and Hindi medium school. There are some disputes between office bearers and complaints have been made to banks.

2. In paragraph 22 of the Petition, it is pointed out that Akshaibar Singh Yadav died on 22nd September 2014 and could never have been a person named in the order under Section 41A to begin with. By the order in question, the 2nd Respondent appointed Mr Akshaibar Singh Yadav despite his demise being informed to the Assistant Charity Commissioner he included the name of Akshaibar Singh Yadav in his order of 14th July 2022. The application is only to substitute his name for the name of Mr Lalbahadur R Yadav.

3. The Miscellaneous Application for the Petitioner dated 12th October 2022 is thus for a mere modification of this error.

4. We are not only inclined to allow the Writ Petition and for that purpose we issue Rule and make it returnable forthwith but we are also inclined to allow the Miscellaneous Application itself. We do so and we direct the 2nd Respondent, the Assistant Charity Commissioner to formally issue an order allowing the Miscellaneous Application after taking on record a copy of the death certificate of Akshaibar Singh Yadav. An authenticated or notarised true copy is

to be annexed to an Affidavit to be filed by one of the Petitioners before the 2nd Respondent, the Assistant Charity Commissioner. That Affidavit is to be filed and served on or before 10th February 2023 and the 2nd Respondent, the Assistant Charity Commissioner, will pass the order allowing the Miscellaneous Application on 17th February 2023. We take this step in exercise of our extraordinary writ jurisdiction to avoid any delay before the 2nd Respondent.

(Dr Neela Gokhale, J)

(G. S. Patel, J)