



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1230 OF 2019

Mrs. Niranjana Prakash Sawalkar .Vs. Charity Commissioner, Maharashtra State, Mumbai and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri V.K. Paliwal, Advocate for the petitioner.

Shri D.P. Thakare, A.G.P. for the respondent No.1/State.

CORAM : ANIL S. KILOR, J.

DATED : 22/08/2023

1. Heard Shri Paliwal, learned counsel for the petitioner and Shri Thakare, learned A.G.P. for the respondent No.1/State. None for the respondent Nos.2 to 7 though served long back.

2. The order passed by the Charity Commissioner, Maharashtra State, Mumbai dated 21.11.2016 in CC-152/50A(2)/2016 amalgamating the trust namely Maa Vaishnavi Mahila Mandal, Karanja (Lad), Dist. Washim, P.T.R. No.F/8492 (Washim) and Wardhaman Foundation, P.T.R. No.E/2429 (Nagpur), is under challenge in this writ petition.

3. It is the case of the petitioner that, he never made any signature on the application for amalgamation filed before the Charity Commissioner and even no hearing was granted as required under Section 50-A of the Maharashtra Public Trust Act, 1950, as a trustee of the trust namely Maa Vaishnavi Mahila Mandal.

4. It is submitted that even there is no resolution for such amalgamation passed by the trust namely Maa Vaishnavi Mahila Mandal. It is the further case of the petitioner that, a fraud has been played on the Court while obtaining the order of amalgamation.

5. Shri Thakare, learned A.G.P. supports the impugned order dated 21.11.2016 passed by the Charity Commissioner.

6. After going through the record and the impugned order, it is evident that, the learned Charity Commissioner while amalgamating both the trust has not discussed about any resolution passed by both the trust or there is no mentioned that hearing was granted to all the trustee of both the trusts or the record of the said trusts was perused or verified.

7. This Court vide order dated 18.02.2019 granted stay to the impugned order and since then the order of stay is operating in this matter.

8. In the above referred circumstances, it cannot be said that, the decision of amalgamation is just and proper only because certain trustee of both the trust approached to the Charity Commissioner for amalgamation. The Charity Commissioner ought to have granted hearing to all the

trustee and ought to have called for the record including the resolution of both the trust and other relevant documents.

9. Moreover, considering the allegations relating to fraud which are of serious nature, I am of the opinion that, the matter needs to be remanded back to the Charity Commissioner to decide the same afresh after hearing both the parties including the petitioner. Accordingly, I pass the following order:

- i) The writ petition is partly **allowed**.
- ii) The impugned order Exh.1 dated 21.11.2016 passed by the Charity Commissioner, Maharashtra State, Mumbai in CC-152/50A(2)/2016, is hereby quashed and set aside.
- iii) The Charity Commissioner is directed to decide the matter afresh after giving sufficient opportunity to the trustee of the trust and after hearing them including the petitioner.

Writ Petition is **disposed of** accordingly. No order as to costs.

JUDGE