

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

WRIT PETITION (WP) NO.1888 of 2022

1. Narayan Gopalrao Jadhav,
aged 71 years, Occ. Service,
R/o Lane No.740/107, M.H.B. Colony,
Meghwadi, Jogeshwari East, Mumbai –
60.

... Petitioner(s)

// VERSUS //

1. Smt. Kalawatibai Bhagwanrao Jadhav,
aged major, Occ. Household,
R/o. Mahatma Fule Vastigruh, Sanjay
Nagar Deulgaon Raja, Tq. Deulgaon Raja,
Dist. Buldana.
2. Sau. Pramilabai Atmaram Mhaske,
aged Major, Occ. Household,
R/o. Near Panchayat Samiti, Sindkhed
Raja, Tq. Sindkhed Raja, Dist. Buldana.
3. Ranjan Godaji Sonkambale,
aged Major, R/o Mahatma Fule Vastigruh,
Sanjay Nagar, Deulgaon Raja, Tq.
Deulgaon Raja, Dist. Buldhana.
4. Bhagwan Gopalrao Jadhao,
aged Major, Occ. Agriculturist,
R/o Mahatma Fule Vastigruh,
Sanjay Nagar, Deulgaon Raja, Tq.
Dulgaon Raja, Dist. Buldhana.
5. The Charity Commissioner, Maharashtra
State, Worli, Mumbai – 60.
6. The Assistant Charity Commissioner,
Buldana, Tq. & Dist. Buldana.
7. The Joint Charity Commissioner,

Amravati Region, Amravati.

... Respondent(s)

Shri R.G. Kavimandan, Advocate for the Petitioner

Shri K.L. Dharmadhikari, AGP for the Respondent Nos.5 to 7/State.

CORAM : ANIL S. KILOR, J.

DATED : 21.02.2023

ORAL JUDGMENT :

1. Heard.
2. In this petition, a challenge is raised to the order passed by the District Judge-1 in Civil Misc. Application No.26 of 2014, dismissing the appeal for want of jurisdiction.
3. After going through the record, it is evident that Assistant Charity Commissioner passed an order on 14.10.1999 thereby allowed the Change Report No.245 of 1999. The petitioner filed revision petition against the same on the ground that without issuing notice or calling objection, the change report was allowed and after receiving the knowledge in 2007, the revision was filed.

4. The said revision was dismissed vide order dated 05.03.2012 against which the appeal was preferred under Section 72 of the Maharashtra Public Trusts Act. The said appeal was filed on 16.07.2013 and thereafter there was an amendment made to the Maharashtra Public Trusts Act on 01.09.2017 and thereby Section 72 of the Maharashtra Public Trusts Act, has been deleted w.e.f. 10.10.2017.

5. The learned District Judge on the ground that such provision has been deleted, therefore, the appeal under Section 72 is not maintainable, dismissed the appeal for want of jurisdiction.

6. It is apparent from the impugned order that the learned lower appellate Court has not taken into consideration Section 33- Removal of doubts of the Maharashtra Public Trusts (Second Amendment) Act, 2017, which reads thus:

“33. Removal of doubts

For the removal of doubts, it is hereby declared that nothing in the Maharashtra Public Trusts Act, as amended by the Maharashtra Public Trusts (Second Amendment) Act, 2017 (hereinafter referred to as ‘the said Amendment Act of 2017’), shall affect the applications or appeals pending before any Civil Court on the date of commencement of the said Amendment Act of 2017; and such

applications or appeals shall be dealt with and disposed of by such Court in accordance with the law as it stood prior to the date of commencement of the said Amendment Act of 2017.”

7. In the circumstances, as the learned lower Appellate Court has not considered Section 33 of the Maharashtra Public Trusts (Second Amendment) Act, 2017, I am of the opinion that the matter needs to be remanded back for fresh decision. Accordingly, I pass the following order:

(i) The writ petition is allowed.

(ii) The impugned order dated 14.12.2021 passed by District Judge-1, Buldana in Civil Misc. Application No.76 of 2014, is quashed and set aside.

(iii) The District Judge-1, Buldana, is directed to decide the appeal afresh, after considering the above referred provision.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]