

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

Writ Petition No.7368 of 2018

Smt. Gitabai Parmeshwarlal Jalan (Dead), thr. L.Rs. Mitthu Parmeshwarlal Jalan And
Others

Vs

Assistant Charity Commissioner, Buldhana 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 Abhay Sambre, Advocate for the Petitioners
Ms Shamsi Haidar, AGP for the Respondent No.1/State

CORAM : ANIL S. KILOR, J.

DATED : 07.06.2023

1. Heard.
2. This writ petition takes an exception to the judgment and order dated 23.02.2018 passed by the District Judge-2, Buldhana in dismissing Civil Misc. Application No.38 of 2015 filed by the petitioners, challenging the judgment and order dated 19.03.2015 passed by the Joint Charity Commissioner, Amravati Region, Amravati, allowing Revision filed by the respondent Nos.2 and 3 and setting aside the order dated 30.08.2004 passed by the Assistant Charity Commissioner, Buldhana, directing to register the trust in question.
3. The Assistant Charity Commissioner initiated an inquiry under Section 19 of the Maharashtra Public Trusts Act, 1950 (for short "the Act of 1950") on an application moved by the petitioners for registration of the trust. The same was allowed vide order dated 30.08.2004 and it was directed to register the

trust. The respondent Nos.2 and 3 preferred the revision before the Joint Charity Commissioner, Amravati, challenging the order dated 30.08.2004.

4. The Joint Charity Commissioner vide order dated 19.03.2015 allowed the revision on the ground that the notice published in the newspaper before passing the order dated 30.08.2004 was not issued in widely circulated newspaper in the locality. The another reason was that, the Assistant Charity Commissioner has not referred to the original trust deed of the year 1937 and accordingly, the matter was remanded back to the Assistant Charity Commissioner, Buldhana.

5. The learned District Judge-2, Buldhana while examining the correctness of the said judgment and order dated 19.03.2015 has observed that no error has been committed by Joint Charity Commissioner, Amravati and accordingly, the application was dismissed.

6. The learned counsel for the petitioners submits that the finding recorded by the Joint Charity Commissioner by remanding the matter to the Assistant Charity Commissioner that the notice was not published in a widely circulated newspaper in the locality, is erroneous and further the finding that the original trust deed of the year 1937 was not referred, was also wrongly recorded. He Accordingly, prays for quashing and setting aside the impugned order.

7. The learned AGP supports the impugned judgment and order and prays for dismissal of the present petition.

8. In the light of rival contentions of the parties, I have perused the impugned order.

9. It has come on record that there is a trust recorded in the year 1937 and though the reference is made to the original registered trust deed of the year 1937, however, no findings are recorded on the same by the Assistant Charity Commissioner.

10. Moreover, it is apparent that the notice was not published in a widely circulated newspaper in the locality and because of it, the majority of Agrawal Community Members in Buldhana could not get the knowledge of the proceeding under Section 19 of the Act of 1950.

11. Thus, both the Courts below i.e. learned Joint Charity Commissioner as well as learned District Judge have found it necessary to remand the matter back to the Assistant Charity Commissioner, Buldhana for fresh inquiry.

12. Considering the record and after going through the findings recorded by the learned District Judge-2, Buldhana, I do not find any error committed by the Court below. Accordingly, the writ petition is **dismissed**.

[ANIL S. KILOR, J.]