



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 464 OF 2020

Bhanudas s/o. Ganpatrao Phavade,
Age 72 years, Occu. Pensioner,
R/o. Sambhaji Nagar, Latur,
Taluka and District Latur

.. Appellant
(Original Petitioner)

Versus

1. Madhavrao s/o. Hanmantrao Patil,
Age 57 years, Occu. Agril.,
R/o. Takli, Taluka Deoni,
District Latur

2. Joint Charity Commissioner,
Latur Region, Latur, District Latur .. Respondents

Mr. V. D. Gunale, Advocate for Appellant;
Mr. Vikas G. Kodale, Advocate for Respondent No.1;
Mrs. R. R. Tandale, A.G.P. for Respondent No.2

CORAM : S. G. MEHARE, J.

DATE : 09-01-2024

PER COURT :-

1. Heard the learned counsel for the parties.
2. The appellant/applicant had filed an application under Section 47 of the Maharashtra Public Trust Act, 1950, before respondent No.2/ the Joint Charity Commissioner, Latur, for the appointment of new trustees.

3. It was his contention that few of the trustees appointed had died, and some were unwilling to continue as trustees. Respondent No.2/Joint Charity Commissioner rejected said application on the grounds that details of the death with death, certificates of deceased trustee, and their names were not furnished. No information was supplied to respondent No.2, who had given up their claim as trustees. Since sufficient material to arrive at a conclusion was not supplied, the application/Enquiry No.4 of 2016 was rejected on 06.09.2018.

4. Now, the learned counsel for the appellant submits that the details of the persons who died and the trustees who are not interested in continuing as trustees have been given before this Court. Nothing on record shows that the appellant was restrained from supplying his information to respondent No.2/Joint Charity Commissioner Latur. It is an enquiry; the applicant should have supplied all required information to respondent No.2.

5. The learned counsel for the appellant submits that the matter may be remitted back and a fresh opportunity of being heard be given.

6. The appellant and respondent No.1 have filed compromise terms. Respondent No.1 is an Administrator appointed by the order of this Court dated 16.03.1995. Surprisingly, the compromise with the appellant supports the appellant's claim. The question is, how

can the Administrator appointed by the Court compromise with the appellant? If he does not want to continue as Administrator, the remedy is to seek a leave to withdraw. Considering the appointment of the Administrator as per the Court's order, the Court believes such a compromise is illegal, and hence, it is liable to be rejected.

7. The very application of the appellant/applicant was rejected for want of complete details. Hence, the matter could not be remitted. However, the appellant may be granted the liberty to file a fresh application to appoint new trustees.

8. For the above reasons, the appeal stands dismissed with the liberty to file a fresh application for the appointment of new trustees.

9. No order as to costs.

(S. G. MEHARE)
JUDGE

rrd