



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

920 WRIT PETITION NO. 8486 OF 2024

SHANKARSA RAJESHWARAS GUJRATHI AND OTHERS

VERSUS

**MAHARASHTRA PRANTIYA SOMWANSHIYA
SAHASTRARJUN KASHTRIYA SAMAJ TRUST AND
ANOTHER**

...
Advocate for the petitioners : Mr.A.D.Khot

...
CORAM : ARUN R. PEDNEKER, J.

DATE : 13.08.2024

P.C. :

1] By the present petition, the petitioners are challenging the order dated 12.03.2024 passed by the 2nd Joint Civil Judge Senior Division, Sangamner below Exh.15 and 1 in RCS No.130/2024, thereby rejected the plaint under Order 7 Rule 1 of the Civil Procedure Code as the suit is barred in view of Sections 51 and 80 of the Maharashtra Public Trusts Act [for short 'the Act'].

2] The plaintiff-respondent filed RCS No.130/2024 before the Civil Judge Senior Division, Sangamner, against the petitioners - defendants for perpetual injunction. On

17.02.2024, the petitioners-defendants filed an application below Exh. 15 in RCS No.130/2024 under Order 7 Rule 11 for rejection of the plaint on the ground that suit is not maintainable as no prior permission of Charity Commissioner u/sec.51 of the Act is obtained; suit is barred in view of Section 80 of the said Act as there is remedy to the plaintiff to file the petition under Section 41-E of the said Act before the Charity Commissioner and the Civil Court of Sangamner has no jurisdiction as trust is registered at Solapur. On 20.02.2024, the plaintiff – respondent filed reply to the application below Exh.15, contending that the suit is maintainable. By order dated 12.03.2024, the trial Court partly allowed the application below Exh.15 and by separate order below Exh.1, returned the suit plaint to the plaintiff under Order 7 Rule 10 of the CPC for presenting it to the Court at Solapur.

3] The learned counsel for the petitioners submits that the petitioners - defendants had raised different objections in their application at Exh.15 filed under Order 7

Rule 11 of the Civil Procedure Code but the trial Court has only dealt with one of the objections i.e. the territorial jurisdiction of the Court for instituting the RCS No.130/2024. Therefore, without considering other objections, the RCS No.130/2024 was required to be rejected holding it as barred under the law. The learned counsel for the petitioners submits that the impugned order is passed without considering the legal objections of the petitioners, therefore, the same requires interference of this Court. Considering the said fact, the present writ petition may be allowed.

4] The trial Court has held that the Court at Sangamner has no jurisdiction to try and entertain the suit. Thus, it is not necessary to consider whether the suit is barred for want of permission as per Section 50 of the Act. There is no error in the impugned order passed by the trial Court, hence, there is no reason to entertain the present writ petition. The present Writ Petition is dismissed.

5] The petitioners are at liberty to raise all issues before the appropriate Court where the suit is instituted and the concerned Court can decide the same in accordance with law.

[ARUN R. PEDNEKER]
JUDGE

DDC