



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

WRIT PETITION NO. 13473 OF 2024

Bapurao Shankar Rathod and others

VERSUS

The State of Maharashtra Through The Secretary and others

Mr. M. S. Kulkarni, Advocate for petitioner
Mr. V. D. Gunale, Advocate for respondent No.2
Mr. D. B. Bhange, AGP for respondent Nos. 1 and 3/State

CORAM : R. M. JOSHI, J.

DATE : 10th DECEMBER, 2024

PER COURT :-

1. This petition takes exception to common order dated 16.10.2024 passed by Joint Charity Commissioner, Latur below Exhibits 5 and 6 in appeal No. 43/2024 and 44/2024. The learned Joint Charity Commissioner has decided that these applications filed for interim arrangement would be considered at the time of final hearing of the appeals.

2. Petitioner is aggrieved by this order for the reason that

application Exhibit 5 in appeal No. 43/2024 is for the purpose of interim arrangement and that the decision there on cannot be deferred till decision of appeal. Learned counsel for the petitioner submits that this has made an application Exhibit 5 infructuous and in any event inspite of appeal being expedited, the same is not decided till date. Apart from this, he has drawn attention of the Court to the order passed by the same authority which indicates that hearing of all these appeals is postponed till the decision of the preliminary issue in revision application Nos. 57, 58, 59 and 66/2023. As such, according to him, there remains no justification not to hear application for interim arrangement. Learned counsel for the petitioner has drawn attention of the Court to the notice received on dated 22.10.2024 and submits that if no interim arrangement is decided immediately, there is likelihood of the trust losing its property.

3. Learned counsel for the respondent though opposes the petition however, it is his submission that if this Court is inclined to issue any direction to the Appellate Authority to decide Exhibit 5 in appeal No. 43/2024, the same direction be made applicable in respect of Exhibit 6 of 44/2024.

4. On the face of it the order passed by the learned appellate

Court seems to be innocuous when it is said that the appeal is expedited and taken up for hearing on day to day basis. However, facts appearing on record and subsequent events indicate that the decision of the appeal or even hearing of the appeal would depend upon the decision in the pending revisions as referred hereinabove. Therefore, this Court finds no justification in the impugned orders, as in any case the appeals are not likely to be decided shortly. Hence, no purpose would be served by maintaining order dated 16.10.2024 deferring the hearing of Exhibit 5 in appeal No. 43/2024, till decision on the appeal.

5. This Court find substance in the said contention for the reason that the parties are seeking direction with regard to the interim arrangement for management of affairs of trust to be made during the pendency of the appeal. Though, attempts seem to have been made by the learned Authority to decide appeals at earliest, but in reality, such decision cannot be passed unless connected revisions are decided. Hence, there would be no other option but to direct the Appellate Authority to decide these applications if the appeal is not decided within a stipulated time. Hence, petition is allowed in following terms:-

a) If the learned Joint Charity Commissioner is unable to hear and decide the appeals on or before 16.12.2024, the said Authority to

take up applications Exhibit 5 in appeal No. 43/2024 and Exhibit 6 in appeal No. 44/2024 for hearing and to decide the same on merits. Needless to say, since the interim arrangement is sought, the learned Appellate Authority to take into consideration the said fact and pass order expeditiously.

(R. M. JOSHI, J.)

bsj