



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2260 OF 2023.

Sukhadev Nabaji Khatke And Anr.

...Petitioners.

Versus

Sant Kaikadi Maharaj Abhyas Mandal And Anr.

...Respondents.

Mr. K. P. Shah for the Petitioners.

Mr. Vaibhav Gaikwad for the Respondent.

Ms. M. S. Bane, AGP for the Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : 16th August 2024.

P. C. :

1. Heard.

2. By this petition the challenge is to the order dated 3rd November 2022 passed by the Joint Charity Commissioner below Exhibit 4 seeking intervention in Inquiry Application No.140 of 2021 which has been rejected by the Joint Charity Commissioner.

3. The facts of the case are that Inquiry Application No.140 of 2021 was instituted seeking acceptance of Change Report. In the said proceedings, the Petitioners filed Application for intervention under Section 73A of the Maharashtra Public Trusts Act, 1950, (for short,

Public Trusts Act).

4. The said Application was resisted by Respondent No.1 contending that the Petitioners are not member of the Trust and therefore the Application is not maintainable. The Joint Charity Commissioner *vide* order dated 3rd November 2022 dismissed the Application.

5. Learned counsel appearing for the Petitioners would submit that the predecessors of the Petitioners had granted land for the construction of School by way of registered Gift Deed dated 15th November 1990. He would further submit that as per the Constitution of the said Trust a person who has donated more than Rs.1000/- can be a member of the Trust. He points out to page 34 which is the Constitution of the Trust which provides for membership of the Trust. He would further submit that in the year 1994 the payment of the membership fees was made by the Petitioner No.1. He therefore submits that as property was gifted by the predecessor of the Petitioners to Respondent No.1- Trust for the purpose of construction of school which purpose has not been served by Respondent No.1- Trust, the Petitioners are interested parties. He would submit that considering the Constitution of the Trust, the Petitioners are entitled to become members of the Trust and are interested parties to

maintain the Application for impleadment.

6. Considered the submissions and perused the records.

7. The fact that property has been gifted by the predecessor of the Petitioners in the year 1994 and has not been disputed. The Intervention Application came to be filed in Change Report filed by Respondent No.1-Trust for impleadment. It will be necessary to show that Petitioners are members of the Trust and are party interested under Section 2(10) of Public Trusts Act. The Joint Charity Commissioner has observed that no evidence has been produced by the Petitioners to demonstrate that they are members of the Trust. Before this Court reliance has been sought to be placed on the Constitution of the Trust which allows a donor to become member of this Trust. The Constitution of the Trust would amount to an entitlement of the Petitioners to become member of the Trust. The issue is whether by virtue of this entitlement the Petitioners have been in fact admitted as members of the Trust. There is no material produced on record to demonstrate that the Petitioners were members of the Trust at the time of filing Application for intervention which is in the year 2021. Reliance placed on singular receipt of the year 1994 showing payment of the membership fees do not enure to the benefit of the Petitioners. Mr. Shah, learned counsel for the

Petitioners has fairly conceded that after the year 1994 there has been no payment of membership fees to Respondent No.1-Trust. Respondent No.1- Trust is an Educational Trust and provisions of section 2(10) (e) provides that in respect of Educational Trust person having interest would include any member of such Trust.

8. In absence of any material on record to demonstrate the membership of Petitioners of Respondent No.1-Society, the Application for intervention is clearly misconceived. The Joint Charity Commissioner has rightly considered that there is no material to show membership of the Petitioners and has therefore dismissed the Application. The same warrants no interference. Petition stands dismissed. Needless to clarify that it is open for the Petitioners to file an Application with Respondent No.1 for membership. The Respondent No.1-Trust to decide the same in accordance with the Constitution.

9. In view of disposal of petition, Interim/Civil Applications, if any, do not survive for consideration and stand disposed of.

[Sharmila U. Deshmukh, J.]