

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.4139 OF 2021

IN

WRIT PETITION NO.10080 OF 2009

Ramchandra Jayant Desai

....Applicant

Versus

Prakash Narayan Joshi And Ors.

....Respondents

WITH

INTERIM APPLICATION NO.2504 OF 2022

IN

WRIT PETITION NO.10080 OF 2009

Mrs. Swati Ravindra Chiney

....Applicant

Versus

Prakash Narayan Joshi And Ors.

....Respondents

WITH

INTERIM APPLICATION NO.4141 OF 2021

IN

WRIT PETITION NO.10080 OF 2009

Swami Swarupanand Seva Mandal

....Applicant

Versus

Prakash Narayan Joshi And Ors.

....Respondents

WITH

WRIT PETITION NO.10080 OF 2009

Mr. Prakash Narayan Joshi

....Petitioner

Versus

Assistant Charity Commissioner, Ratnagiri & Ors.

....Respondents

Mr. R. S. Apte, Senior Advocate i/b Mr. V. A. Shastry for the Applicant.

Mr. S. S. Patwardhan for Respondent No.2.

Mr. M. S. Athalye for Respondent No.4.

Ms. Bhavana Kongre i/b Mr. Purushottam Chavan for Respondent Nos.12,14,16, 21, 24 and 30.

CORAM : SHARMILA U. DESHMUKH, J.

DATED : 6th MARCH, 2024.

P. C. :

INTERIM APPLICATION NO.4139 OF 2021

1. By this Application the applicant seeks to be substituted in place of the original petitioner who has expired, for condonation of delay and setting aside the abatement and for restoration of the petition. It is contended that the original petitioner had challenged the judgment and order dated 31st August 2009 passed by the Assistant Charity Commissioner in Misc. Application No.195 of 2000 upholding the enrollment of 547 persons as life members of Respondent No.4-public trust. The induction of persons as life members was pursuant to the Resolution of Managing Committee meeting which was held on 10th September 2000. The petition was admitted *vide* order dated 31st August 2009. During the pendency of the petition the original petitioner passed away on 19th January 2020 during the covid pandemic. The applicant contends that he was member of the Committee and was a trustee and as such interested person within meaning of Section 2(10) of the Maharashtra Public Trust Act.

2. Reply has been filed by respondent No.2 in which it is denied that he is a member from 1995 and a trustee from 2016 or that he has any personal knowledge of the proceedings.

3. Considering that in the present proceedings the validity and legality of the order dated 31st August 2009 of the Charity Commissioner is under challenge, it is not required that person who is transposed in place of the original petitioner now deceased should have any personal knowledge of the matter. As the issue is concerning enrollment of 547 persons as life members of the Trust, the official record will form the basis of affidavits, if any, to be filed. The petition is admitted and it cannot be disputed that the *lis* continues.

4. As the Trust is a Public Trust which is involved the same assumes significance and if there is any misadministration of the affairs of Public Trust, the same is required to be corrected.

5. In view of above, the Application is allowed. The Applicant is directed to carry out the amendment forthwith.

INTERIM APPLICATION NO.2504 OF 2022 AND 4141 OF 2021

6. In view of the order passed in Interim Application

No.4139of 2021 impleading the applicant in place of the original petitioner now deceased, the applications do not survive for consideration and are accordingly disposed of.

WRIT PETITION NO.10080 OF 2009

7. Writ Petition is already admitted on 29th February 2012. To be listed under the caption “For Final Hearing” on **14th March 2024 at 4.00 p.m.**

(SHARMILA U. DESHMUKH, J.)