

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1866 OF 2002.

Hanuman Kisan Shikshan Prasarak Mandal And Ors. ...Petitioners.

Versus

Keru Narayan Mohite And Ors. ...Respondents.

Mr. Umesh R.Mankapure a/w Nilesh Wable for the Petitioner.
Ms. Priyanka B. Chavan AGP for the Respondent-State.
None for the Respondent Nos. 1 to 5.

Coram : Sharmila U. Deshmukh, J.

Date : December 12, 2024.

P. C. :

1. Rule was issued by order dated 28th March 2003, and interim relief was granted in terms of prayer clause (c) of the Petition staying the operation of the impugned Judgment and Order dated 4th March 2002, passed by the in charge Additional District Judge in an Interim Application below Exhibit-7 in Miscellaneous Civil Application No. 33 of 2001.

2. Briefly stated the facts of the case are that in respect of the Petitioner No. 1-Trust two Change Reports came to be filed by rival factions i.e. Change Report 180 of 1990 which was filed by the Petitioners and Change Report 194 of 1990 which was filed by the Respondent No. 2.

3. By order dated 12th March 2001, the Assistant Charity

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Commissioner rejected both the Change Reports and issued directions under Section 41 of the Public Trust Act appointing an ad-hoc committee to manage the school and directed submission of a scheme under Section 50-A (1) of the Public Trust Act for the proper administration of the Trust. As against this, Appeal No. 68 of 2001, was filed by the Petitioners before the Joint Charity Commissioner which came to be allowed by order dated 4th July 2001. The effect of allowing the Appeal was that the Change Report of the Petitioner i.e. 180 of 1990 was accepted and the order of appointment of Ad-hoc Committee was set aside. As against this, the Respondent No. 1 preferred Petitions before this Court which came to be withdrawn and thereafter Appeal was filed which is Miscellaneous Application No. 33 of 2001, before the District Judge. In this proceedings by way of an interim application the stay of the order of the Joint Charity Commissioner dated 4th July 2001, was sought and came to be granted by the Additional District Judge vide order dated 4th March, 2002 thus reviving the order of the Assistant Charity Commissioner of appointment of Ad-hoc Committee and rejection of the Change Reports.

4. By way of present Writ Petition there was an interim stay which was granted to the order of the District Judge which has the effect of reviving the order of the Joint Charity Commissioner dated 4th

July 2001.

5. Mr. Mankapure learned Counsel appearing for the Petitioner has taken this Court through the record and proceedings and would submit that subsequent to the proceedings being stayed by this Court there are almost eight change reports which have been filed and are pending adjudication. He would fairly submit that as the main appeal is pending for hearing before the District Judge since the year 2001 the same can be proceeded with and the interim relief which is passed by this Court may be continued.

6. None appears for the Respondent though appearance has been caused. Considering that the main proceedings of the year 2001 are pending adjudication and the subsequent events by virtue of which the change reports were filed and are pending adjudication, the efficacy of the impugned order dated 4th March 2002, is considerably diluted. In the facts of the present case the appropriate course would be to direct the adjudication of the main Miscellaneous Application No. 33 of 2001 and to continue the interim relief which was granted by this Court till the disposal of the Miscellaneous Application No. 33 of 2001.

7. In light of the above, as the proceedings of the year 2001 have been stayed and as far as the constitution of Committee is concerned there have been subsequent development which has considerably diluted the effect of the previous orders the Petition is

disposed of with direction to the Additional District Judge to decide the Miscellaneous Application No. 33 of 2001.

8. As the interim order has been in operation since the year 2002, till the final disposal of the Miscellaneous Application No. 33 of 2001 the operation of the Judgment and Order dated 4th March 2002, is stayed.

9. Petition is allowed in above terms. Rule is made absolute in the above terms.

[Sharmila U. Deshmukh, J.]