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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8780 OF 2023**

Yasmin Fahim Sayyad

... Petitioner

Vs.

The Joint Charity Commissioner

... Respondents

Pune Region, Pune and Others

Mr. Nikhil Sakhardande a/w. Ms. Shubra Paranjape, Mr. Manish Kelkar, Mr. Nimesh Gawali for the Petitioner.

Mr. Shantanu Shetty i/b. Mr. Sangram Chinappan for Respondent No. 2.

Ms. S. S. Bhende, AGP for the State.

CORAM : GAURI GODSE, J.

DATE : 15th JANUARY 2024

P.C.

1. Heard. This petition takes exception to the order dated 19th December 2022 passed by the Joint Charity Commissioner, Pune Region, Pune in Miscellaneous Application No. 87 of 2021. The said application was filed for condonation of delay of 21 years in challenging the order dated 4th March 2000. By order dated 4th March 2000, the Change Report for adding names of trustees was accepted.

2. The petitioner claims to be a beneficiary of respondent no. 2-Trust. The petitioner had filed an intervention application in Miscellaneous Application No. 87 of 2021 opposing the said application and also raising grounds concerning the rights of the petitioner. By the impugned order the application for condonation of delay of 21 years is allowed without hearing the petitioner and without deciding the petitioners' intervention application.

3. Learned counsel for respondent no. 2 does not dispute that the petitioner was not heard at the time of passing the impugned order. It is also not in dispute that the petitioners' intervention application is still pending.

4. In view of the aforesaid, learned counsel for respondent no. 2 on instructions states that respondent no. 2 has no objection if the matter is remitted back for hearing on delay condonation application afresh along with the petitioners' application for intervention.

5. Learned AGP appearing for respondent nos. 1 and 3 also does not dispute that the petitioner was not heard.

6. Perusal of the impugned order does not indicate that any notice was issued to the petitioner, though an intervention application was filed. On the intervention application, there is an order passed directing the other side to say. In view of the application already filed, the petitioner was entitled to be heard being an interested party.

7. Hence, considering the aforesaid limited controversy in the matter the petition is allowed by passing the following order :

(i) The impugned order dated 19th December 2022 passed by the Joint Charity Commissioner, Pune Region, Pune in Miscellaneous Application No. 87 of 2021 is quashed and set aside.

(ii) Miscellaneous Application No. 87 of 2021 is restored to the file of the Joint Charity Commissioner, Pune Region, Pune for hearing afresh.

(iii) The Joint Charity Commissioner, Pune Region, Pune shall hear and decide the Miscellaneous Application No. 87 of 2021 afresh along with the petitioner's application for intervention at Exhibit 4 annexed as Exhibit C to the present petition.

- (iv) It is clarified that I have not examined the merits of the Miscellaneous Application No. 87 of 2021 as well as the intervention application.
- (v) All contentions of all parties are kept open.
- (vi) Writ Petition stands disposed of in the above terms.
- (vii) Petitioner as well as respondent no. 2 are at liberty to file their affidavits in reply to the respective applications.
- (viii) All concerned to act on an authenticated copy of this order.

[GAURI GODSE, J.]