



Gaikwad RD

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.4527 OF 2023
IN
WRIT PETITION NO.4041 OF 2021

Rehmat Ali Baig	...Applicant
In the Matter Between:	
Shreehari Satsing Samiti, Mumbai	...Petitioner
<i>Versus</i>	
The Joint Charity Commissioner, Maharashtra State, Mumbai & Ors.	...Respondents

Ms. Priyanka Acharrya, *with Mr. Vasim Siddiqui, i/b. Mr. Akshay Pawar, for the Applicant.*

Ms. Eventa A. Gonsalves, *with Mr. Reyden L. Gonsalves, for the Petitioner.*

Mr. P. P. Kakade, Government Pleader, *with Mr. O. A. Chandurkar, Addl. GP, Mr. A. A. Alaspurkar & Mr. A. R. Metkari, AGP, for the Respondents No.1 and 2-State.*

Mrs. Pushpa Ganediwala, *with Vrushali Agrawal, i/b. Ms. Namrata Shinoy, for the Respondents No.3 and 4.*

CORAM Dr. Neela Gokhale, J.

DATED: 11th January 2024

PC:-

1. The application seeks permission to implead the applicant as a party Respondent in the present writ petition. The Petitioner Trust impugns judgment and order dated 17th December 2019 passed by Joint Charity Commissioner Maharashtra State, Mumbai refusing permission to Petitioner to sell the suit property.

2. Ms. Acharrya, learned counsel appearing for the Applicant/Intervenor contends that her client was not aware of the proceedings before the Charity Commissioner and hence she was unable to intervene in those proceedings. She states that the Applicant is a tenant of the Trust and in occupation of Shop No.1 situated on the ground floor of the building of the suit property. According to Ms. Acharrya, the Trust has suppressed various facts before this Court and is desirous of assisting this Court in determination of the issue in the present writ petition by bringing those facts on record. She further states that the Trust has suppressed the fact that it was not conducting the activities of the Trust in consonance with the object of the Trust in the suit property. Moreover, she says that the trust has deliberately made false statement that the locality where the building is situated is unsafe and full of vagrants. She states that they have also made false statements in regard to the valuation of the suit property arrived at while negotiating with the potential purchaser. She thus relies upon the grounds averred by her in paragraph 3 of the application.

3. Mr. Kakade, learned Government Pleader appearing for the Charity Commissioner says that all the aspects which have been narrated in paragraph 3 of the application are already considered by the Joint Charity Commissioner in its order.

4. Ms. Gonsalves, learned counsel appearing for Petitioner Trust states that the Intervenor has no *locus* to intervene in the petition. She states that the Trust has initiated two eviction suits against the Applicant bearing No. R.A.E.No.512 of 2020 and R.A.E.

No.997 of 2023 before the Court of Small Causes at Mumbai. She, thus, states that the Applicant/Intervenor is seeking to intervene in the petition only as a counterblast to the eviction suits filed against him.

5. Mrs. Ganediwala, learned counsel appearing for Respondents No.3 and 4 who are prospective purchasers of the suit property has brought to my attention to Section 73A of the Maharashtra Public Trust Act, 1950 (“**the Act**”), which reads as thus:

“73A Power of Inquiry Officer to join persons as party to proceedings.- In any proceedings under this Act, any person having interest in the public trust may be joined as a party to such proceedings on an application made by such person or such terms and conditions as the officer holding the inquiry may order.”

6. She also points out the definition of ‘persons having interest’ as defined in Section 2(10) of the Act. She also relies upon a judgment of this Court in the matter of *S. H. Jawandhiya & Ors. v. Onkareshwar Birbal Prasad Mishra*¹. This Court in paragraph 10 of the said decision has held that the employee or a tenant does not fall within the category of persons having interest in the Trust.

7. Heard learned counsel for the parties. I have gone through the documents with the assistance of the counsel.

1 1996(2) Mh.L.J. 897.

8. Intervention in a petition is permissible only when the Intervenor/Applicant has *locus standi* and interest in the subject matter of the Petition. The Applicant herein is admittedly a tenant in the suit property and her tenancy rights in the suit property, if any, are not subject matter of the present petition. The outcome of these proceedings do not affect the tenancy rights.

9. There are two tests required to be satisfied for determining whether the intervenor is a necessary party to the proceeding. *Firstly*, whether there exists any right to any relief against any party to the proceeding in respect of the controversy involved in the proceeding and *secondly* whether the intervention is necessary for effective implementation of the orders passed in the proceeding.

10. The Intervenor has not made out any case justifying the intervention and does not meet the criteria of being a necessary party or of having legitimate interest in the proceedings. The decision relied upon by Mrs. Ganediwala applies to the facts of the present case.

11. In these circumstances, the intervention application is devoid of merit and dismissed. No order as to costs.

12. It is clarified that I have not gone into the merits of the controversy and the observations in the order do not affect the merit of the eviction suits.

(Dr. Neela Gokhale, J)