

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1125 OF 2024

Shree Kaleshwari Devi Trust & Ors.

.. Petitioners

Versus

~~Maruti Bandu Gurav~~

(since deceased through LRs.)

Kusum Maruti Gurav & Ors.

.. Respondents

-
- Mr. P.B. Shah i/by Mr. Kavyal P. Shah for Petitioners
-

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 29, 2024

P. C.:

1. Heard Mr. Shah, learned Advocate for Petitioners.
2. Perused the suit plaint. Petitioner No. 1 / Defendant No. 1 is a registered Trust administering the Temple where Respondent No. 1 is the priest. *Prima facie* on reading of the reliefs claimed in the suit plaint which is at Exh. A, Page Nos. 18-28 of the Writ Petition, it is seen that such reliefs as prayed for in the suit plaint cannot be adjudicated and granted in the Civil Suit. Plaintiff is the priest of the temple which is under the management of the Defendant Trust. The Trust is governed by the provisions of the Bombay Public Trusts Act 1950 and the rules made thereunder. Reliefs sought by the Plaintiff for management and control of the Temple cannot be granted in a Civil Suit.

3. Be that as it may, Application filed by Plaintiff under Order XI, Rule 1 of the CPC has been allowed by the learned Trial Court, *inter alia*, permitting Plaintiff to deliver interrogatories on the Respondent Trust which *prima facie* can be seen to be in the nature of cross-examination. However in view of the reliefs prayed for by the Plaintiff in the suit proceedings before the learned Trial Court, the impugned order dated 23.10.2023 is expressly stayed. The Trial Court shall not proceed with the hearing of the Suit untill the present Writ Petition is heard and decided finally.

4. In the meanwhile, issue notice to the Respondents made returnable on 26.02.2024. Humdast permitted. In addition to Court's notice, Petitioners are directed to serve copy of the Petition along with copy of this order to the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date. After receiving the notice, Respondents to file affidavit-in-reply on or before the next date, if so desired.

5. Respondents are directed to remain present either themselves or through their Advocate on the next adjourned date. It is made clear that if Respondents remain absent despite service on the next adjourned date, this Writ Petition shall be heard and disposed of at the stage of admission in the absence of Respondents.

6. Stand over to 26th February, 2024.

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[MILIND N. JADHAV, J.]

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signed by
RAVINDRA
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AMBERKAR
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