

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6434 OF 2024

Vasantdada Patil Pratisthan Mumbai and ...Petitioners
Ors.

Versus

Nandkumar M. Katkar and Ors. ...Respondents

Mr. Kunal Bhanage a/w Anukul Seth and Eden Ribeiro for the
Petitioners.

None for the Respondents.

CORAM : M.M. SATHAYE, J.
DATE : 28 MAY 2024
(VACATION COURT)

P.C. :

. Not on board. Taken on board at the request of the learned
counsel for the Petitioners. Heard learned counsel for the Petitioners.

2. By this petition, the Petitioners who are one faction of the
Petitioner No.1 Trust, are challenging the orders dated 02.04.2024
and 22.04.2024 passed by the Joint Charity Commissioner,
Mumbai.

3. By order dated 02.04.2024, the parties were directed to
complete final argument on main application under Section 36A(3)
of the Maharashtra Public Trusts Act, 1951 and an application Ex.
22 together, on the next date i.e. 18.04.2024. By order dated
22.04.2024, a request for keeping the order dated 02.04.2024 in

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abeyance, was rejected and parties were directed to comply with the order dated 02.04.2024 and argue the matter finally and the matter was posted on 24.04.2024.

4. The private Respondent Nos. 1 and 2 are rival faction in the Petitioner No.1 Trust. It appears that between the same contesting parties an order was passed by this Court earlier, in Writ Petition No. 4495 of 2023 on 16.02.2024, where it was directed that the Petitioners will be at liberty to raise the issue of maintainability of the application under 36A(3) challenging the locus of the private Respondents, along with other issues and it was further directed that contention of all the parties in terms of application below Ex.22 and other issues in the main application, shall be decided uninfluenced by the earlier order of the Charity Commissioner by which the objections about maintainability were rejected. It further appears that this matter was heard on 30.04.2024 and was adjourned for further hearing on 11.06.2024.

5. In the aforesaid factual backdrop, the learned counsel for the Petitioner submits that the matter is required to be moved urgently in the Vacation Court, because in the interregnum, and before the petition can be heard by this Court on 11.06.2024, by an order dated 27.05.2024, the Joint Charity Commissioner-1, Maharashtra State, Mumbai has passed an order below Ex.58, thereby recording that the argument stand closed and the matter is kept on 30.05.2024 (day after tomorrow) for orders.

6. It is submitted that when the main application under Section 36A(3) as well as Petitioners' objection below Ex. 22 were directed to be heard together under the order of this Court itself, and when the present impugned orders were under consideration of this Court in the present petition, the said order dated 27.05.2024 seriously prejudices the contention of the Petitioners. He submits that in view of this prejudice, coupled with the fact that in the main application under Section 36A(3), the rival faction of private Respondents are seeking permission to deal with properties of the Trust for raising loan of considerably large amount, it is necessary that the Petitioners are given sufficient opportunity to contest the matter on merits. There is merit in this submission.

7. Therefore, considering the factual background narrated above and the fact that the present petition is already posted by this Court for hearing on 11.06.2024, I find it necessary to pass following order, in the interest of justice :

A) The Joint Charity Commissioner-1, Mumbai is directed to defer the hearing of the main Application under Section 36A(3) along with Petitioners' application Ex.22, till 12.06.2024.

B) Stand over to 11.06.2024.

8. All concerned to act on duly authenticated/digitally signed copy of this order.

(M.M. SATHAYE, J.)