

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 9471 OF 2024**

Prashant Mehta and Ors.

... Petitioners

Versus

Rashmi Mehta and Ors.

... Respondents

WITH**WRIT PETITION NO. 9456 OF 2024**

Prashant Mehta and Ors.

... Petitioners

Versus

Bhavin Mehta and Ors.

... Respondents

.....

Mr. Atul Damble, Senior Advocate a/w. Mr. Abhishek Prabhu and Ms. Payal Vardhan i/b. Mohd. Asim, Advocates for the Petitioners in both the Writ Petitions.

Mr. Siddhant Dhavale i/b. MZM Legal LLP, Advocate for Respondent No.1 in both the Writ Petitions.

Ms. A. A. Nadkkarni, AGP for Respondent No.2 – State.

CORAM : R. M. JOSHI, J.**DATED : 4th SEPTEMBER, 2024.****P.C. :**

1. These Petitions are filed for review of order dated 09.07.2024 passed by this Court in Writ Petition No. 9471 of 2024 and Writ Petition No. 9456 of 2024.

2. Learned Senior Counsel appearing for the petitioners submits that in the bunch of writ petitions, two petitions were heard and order was passed on 09.07.2024, whereas other petitions were disposed of by order

dated 10.07.2024. It is his submission that the apprehension sounded by the petitioner was duly taken care by this Court in the order dated 10.07.2024 in paragraph No.4, which reads thus:

“4. The apprehension of the petitioner that the observations made in the order passed on an application for impleadment based upon the resolution would affect the merits of the change report filed on the basis of those resolutions is also unfounded, as any such observations would be limited for the purpose of deciding the application for impleadment and not otherwise. The petitions are therefore dismissed.”

3. He also drew attention of this Court to the fact that there are number of Change Reports pending for decision in respect of the Trust and therefore irrespective of the fact as to whether the application for intervention has been allowed or not, the issue is about effect on other proceedings if any observations being made by the Charity Commissioner, on resolution sought to be relied upon by the petitioners as intervenor. In the light of these facts, he seeks similar order as recorded herein above.

4. Learned counsel for the respondents however opposed to grant of any such clarification in the order for the reason that the facts in those cases materially differ. In the writ petition No. 9485 of 2024 and other petitions, there was already an application of intervention allowed and in that circumstance, above observations were required to be made by this Court. Whereas, according to him, in the presence case, the intervention application is yet to be heard and decided. Thus, it is his contention there is no reason making passing similar observations in present case as done in

the other petitions.

5. This Court finds that the apprehension has been spelt out by the petitioners with regard to the effect on other proceedings of observations made in the order passed on impleadment of the petitioner in the proceeding by the Charity Commissioner. Needless to say that such issue would arise in this case at the time of decision of the application for impleadment. Since, there is no consensus between the parties with regard to the clarification to the order dated 10.07.2024 as sought by petitioner this Court finds it inappropriate to pass any order in this regard.

6. Even otherwise, it would be open for the petitioners to bring to the notice of the Charity Commissioner order dated 10.07.2024, and which may serve purpose of the petitioners.

7. Hence both the writ petitions stand disposed of. Pending applications, if any, also disposed of.

(R. M. JOSHI, J.)

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