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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9490 OF 2024

Madha Taluka Shikshan Prasarak

Mandal Kurduwadi

Through Chairman And Ors.

...Petitioners

Versus

Ld. Joint Charity Commissioner And Ors.

...Respondents

Mr.Umesh H. Pawar for the Petitioners.

Ms.Gauri Jadhav, A.G.P - "A" Panel Counsel with Mr.Hamid Mulla,
AGP for the Respondent – State.

Mr.Chaitanya Khade with Mr.S.S. Jadhav (through V.C.)

CORAM : AVINASH G. GHAROTE, J.

DATE : 12th JULY 2024

P.C.:

1. The petition challenges the order dated 17.06.2022 passed by Deputy Charity Commissioner, Solapur in C.R.No.1309 of 2022, accepting the same and the judgment dated 25.06.2024 passed by the Joint Charity Commissioner, Pune in Revision No.71 of 2022 dismissing the Revision.

2. The basic ground for challenge is that the membership of the respondent Nos.4 to 7 and other persons, was

in dispute on account of which they have approached the Civil Court by way of a Civil Suit, in which the respondent No.3 appeared as the defendant on behalf of the trust and agreed to the consent decree. The suit was filed on 07.02.2020 and the consent decree was obtained on 22.04.2022, on which date itself the notice of the annual general meeting to be held on 10.05.2022 was issued, in which annual general meeting the respondents claim to have been elected.

3. This compromise decree subsequently has been set aside by consent by the order dated 15.06.2024, passed in M.C.A. No.97 of 2022, which would indicate that the dispute regarding the respondent Nos.4 to 7 being the members of the Trust still subsists. In that view of the matter, since this position was never there, before the learned Deputy Charity Commissioner and would also require recording of evidence to determine the validity of the elections held on 10.05.2022, the impugned orders cannot be sustained.

4. The respondent Nos.3 to 7 have also tendered affidavits across the bar which are taken on record and marked as "A" to "E", which records their consent for setting aside the

impugned judgment. In view of the position, the impugned Judgments, as indicated above, are hereby quashed and set-aside and the matter is remitted back to the learned Deputy Charity Commissioner in C.R. No.1309 of 2022 to decide the same in accordance with law, after permitting the petitioners to lodge their objection and to lead evidence, if any. It is also stated that C.R. No.1915 of 2022 filed by the petitioners is also pending before the Deputy Charity Commissioner, Solapur. It would be appropriate if both the change reports are decided as early as possible. The petition is accordingly disposed off, in above terms.

(AVINASH G. GHAROTE, J.)