



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 7993 of 2023

Gajanan S/o Bhopaji Ambhore and anr. ..vs.. Shri Vaibhav S/o Manohar Ambhare and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. H. D. Dangre, Advocate for the petitioners
Mr. C. A. Babrekar, Advocate for respondent no. 1
Mr. A. M. Joshi, AGP for respondent nos. 3 and 4

CORAM : ANIL L. PANSARE J.

DATED : 30-07-2024

Heard.

2. One of the prime contentions of the petitioners is that once the change report in Inquiry No. 325/2012 has attained finality, it could not have been reopened by the legal heir of deceased trustee.

3. By the aforesaid change report, the reporting trustee submitted an application to delete the names of two trustees, namely, Ramdas Ganuji Bhagat and Manohar Bhopaji Ambhore. Both the trustees expired and, therefore, the said change report was filed. Along with the same, the names of two trustees were sought to be registered, namely, Gajanan Bhopaji Ambhore in place of Manohar Bhopaji Ambhore and Tularam Ramdas Ambhore in place of Ramdas Ganuji Bhagat.

4. It is worth mentioning here that the trust under question came to be registered vide order dated 9-6-1998 in Inquiry No. 134/1992. The order of registration includes the mode of succession to the trusteeship. It

provides that the outgoing trustee shall be replaced by his/her major son or daughter.

5. In the present case, Manohar Bhopaji Ambhore has been replaced by his brother Gajanan Bhopaji Ambhore. At the relevant time, Manohar had a minor son and, therefore, could not have been appointed as trustee in terms of the mode of succession.

6. This change was objected to by other trustees on the ground that the change has been reported on the basis of false documents. The change report, however, was accepted by the then Assistant Charity Commissioner, Yavatmal. The aggrieved trustees assailed the order under revision before the Joint Charity Commissioner, Amravati, who had dismissed the revision vide order dated 15-11-2017. This order has been not challenged further and in that sense, the change reported vide Inquiry No. 325/2012 attained finality.

7. The son (present respondent no. 1) of deceased trustee (Manohar Bhopaji Ambhore) after attaining majority, filed yet another revision before the Joint Charity Commissioner, Amravati and the Joint Charity Commissioner was pleased to allow the revision vide order dated 15-6-2023. The Joint Charity Commissioner opined that the present respondent was minor at the relevant time and was not party to the change report.

8. My attention is drawn to the pleadings in the revision where the respondent has averred that the appointment of Tularam Ramdas Ambhore in place of Ramdas Ganuji Bhagat is in terms of provisions of modes

of succession. Learned counsel for the petitioners submits that in the given facts and circumstances of the case, if at all, the findings of the Assistant Charity Commissioner in Inquiry No. 325/2012 were to be disturbed under the second revision, the Joint Charity Commissioner ought to have restricted his finding as regards the replacement of Manohar Bhopaji Ambhore. He having quashed and set aside the entire change report, the order is unsustainable.

9. I need not go into the said part of controversy in as much as the law is well settled. Once the change report has attained finality, it could not have been reopened by filing second revision. The Joint Charity Commissioner committed serious error of law in reopening the enquiry, that had attained finality.

10. At this stage, learned counsel for respondent no. 1 seeks liberty to file appropriate proceedings in this regard as available in law. Such liberty is not required, if the appropriate remedy is available in law. The liberty is always with the party intending to avail such remedy.

11. In view of the facts noted above, the writ petition is allowed.

12. Order dated 15-6-2023 passed by the Joint Charity Commissioner, Amravati Region, Amravati in Revision Petition No. 22/2022 is quashed and set aside.

(Anil L. Pansare, J.)