Reserved On : 27/05/2025
Pronounced On : 08/12/2025

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 7336 of 2025

With
R/SPECIAL CIVIL APPLICATION NO. 7284 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE J. L. ODEDRA

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Approved for Reporting	Yes	No
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ASHOKBHAI KANJIBHAI MANGE & ORS.
Versus
CHARITY COMMISSIONER, GUJARAT STATE & ORS.

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Appearance:
SCA No.7336 of 2025
MR DHAVAL DAVE, SR ADV. with AVINASH R THACKER AND SHIVANG A THACKER(7424) for the Petitioner(s) No. 1,2,3,4,5
MR GH VIRK GOVERNMENT PLEADER with MS DHARITRI PANCHOLI, AGP for the Respondent(s) No. 1,2,3
MR DIPEN DESAI with MR DAXAY PATEL for the Respondent No.4
SCA No.7284 of 2025
MR DIPEN DESAI with MR DAXAY PATEL for the Petitioner
MR GH VIRK GOVERNMENT PLEADER assisted by MS DHARITRI PANCHOLI, AGP for the Respondent(s) No. 1,2,3
MR DHAVAL DAVE, SR ADV. with AVINASH R THACKER AND SHIVANG A THACKER(7424)for the Respondent No.4

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CORAM:**HONOURABLE MR.JUSTICE J. L. ODEDRA**

CAV JUDGMENT

1. Draft amendment in Special Civil Application No.7284 of

2025 was tendered which was allowed and permitted to be carried out. Additional affidavit in SCA No. 7336 of 2025 was tendered which was also permitted to be taken on record.

2. With the consent of the parties, these Special Civil Applications have been taken up for final hearing. These Special Civil Applications are being decided by this common judgment for the reason that both matters arise from the same background facts.

3. The petitioners in of SCA No.7284 of 2025 have prayed for the following reliefs:-

> "7. The petitioner, therefore, prays that:
>
> (A) The Hon'ble Court may be pleased to issue a writ of Certiorari or a writ of Mandamus or any other appropriate writ/order/direction and thereby be pleased to quash and set aside the impugned ex-parte order dated 15.05.2025 passed by the Learned Joint Charity Commissioner, Rajkot below Exhibit 4 in Judicial Misc. Application No. 41/06/25 (Annexure A Colly);
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> (B) Pending final hearing and disposal of this petition, the Hon'ble Court be pleased to stay the operation, execution and implementation of the impugned ex-parte order dated 15.05.2025 passed by the Learned Joint Charity Commissioner, Rajkot below Exhibit 4 in Judicial Misc. Application No. 41/06/25 (Annexure A Colly);
> C) The Hon'ble Court be pleased to grant such other and further relief in the interest of justice."

4. The petitioner of SCA No.7336 of 2025 has prayed for the following reliefs:-

> "30. Taking into consideration the above grounds and others that may be urged at the time of hearing, this Hon'ble Court may kindly be pleased: -

(A) To admit and allow this petition.

(B) To issue a writ of mandamus or a writ in the nature of mandamus or a writ of certiorari or a writ in the nature of certiorari or other appropriate writ, order or direction, quashing and setting aside the order dated 21.5.2025 at (Annexure-C) passed by respondent no.2 below Ex.9 in Judicial Misc. Application No.41/06/2025.

(C) Pending admission, hearing and final disposal of the above Special Civil Application, to stay the execution, implementation and operation of order dated 21.5.2025 at (Annexure-E) passed by respondent no.2 below Ex.9 in Judicial Misc. Application No.41/06/2025 and stay the further proceedings of Judicial Misc. Application No.41/06/2025 pending before the Respondent No.2.

(D) The Hon'ble Court may kindly be pleased to grant any other appropriate relief as the nature circumstances of the case may require."

5. The parties in both the aforesaid proceedings are, more or less, the same, albeit, their capacities (they being petitioners/respondents) in the respective petitions may differ. And therefore, for the ease of reference, the parties shall hereinafter be referred to by their capacity in Special Civil Application No.7336 of 2025.

6. Briefly stated, the petitioners claim to be the beneficiaries and the interested persons in certain Trust – Ishwar Aashram (Dwaro) Trust, Vadhay, Bhuj – Kutchh. The petitioners claim that they are followers of the Guru of the said Trust namely, Sadhu Karsandasji Guru Shanti Ramji.

7. Apparently, Sadhu Karsandasji Guru Shanti Ramji passed away on 20.02.2012. It is, therefore, the case of the

petitioners that after the demise of Sadhu Karsandasji Guru Shanti Ramji, there was no successor as the said Sadhu Karsandasji Guru Shanti Ramji was against appointment of any successor and, therefore, a Committee was formed for managing the Trust. Such Committee was formed after 13th day (*i.e., on 03.03.2012, counting 13 days, including the day on which demise of Sadhu Karsandasji Guru Shanti Ramji occurred*[1]) of the demise of Sadhu Karsandasji Guru Shanti Ramji. And that, the same was done in presence of the respondent no.4, who is the petitioner of Special Civil Application No. 7284 of 2025.

8. However, by 29.02.2012, the respondent no.4 had filed a Change Report being the Change Report No.54 of 2012, to remove the name of Sadhu Karsandasji Guru Shanti Ramji from the records and to enter his name in place of the said Sadhu Karsandasji Guru Shanti Ramji. To this, objections were raised by respondent no.1 and Ors. of Special Civil Application No.7284 of 2025[2].

9. Earlier an application, being Judicial Misc. Application No.41/09/2016, by Ravilal Kesra Patel and Pathai Hirjibhai Bhanushali, had been preferred under Section 41A of the Act before the Joint Charity Commissioner, Rajkot. And the same had been rejected.

10. By an Order dated 11.05.2017, the said Change Report was allowed. Against the same, two appeals were preferred under Section-70 of the Gujarat Public Trusts Act, 1950 (hereinafter referred to as '**the Act**'). The said appeals and the appellants

[1] Refer Paragraph-9 of the SCA NO.7336 of 2025.

[2] Please refer Paragraph-2.4 of the Petition. Apparently, in SCA No.7284 of 2025, the respondent no.1 is the Charity Commissioner, Gujarat State. Therefore the reference to Respondent No.1 may be continued as reference to the petitioner.

therein are as follows:

a) Appellant Ashokbhai Kanjibhai Mange, (who is the petitioner no.1 in SCA No.7336 of 2025) preferred Appeal No.34 of 2017.

b) Shri Kesra Patel and Shri Pathai Hirjibhai Bhanushali, preferred Appeal No.35 of 2017;

Both of the said appeals came to be dismissed vide separate orders, each dated 28.12.2022. Thus the position qua grant of Change Report in favour of the Respondent No.4 continued.

11. One, Ravilal Kesra Patel and Pathai Hirjibhai Bhanushali preferred a Scheme Application, being Scheme Application No.17 of 2015, under Section-50(A) of the Act before the Joint Charity Commissioner, Rajkot. The said Scheme was also rejected by an Order dated 28.12.2022.

12. Thus, by 28.12.2022, the appeals and the Scheme Application had come to be rejected.

13. Against the Order passed in Appeal under Section 70, in respect of the grant of Change Report No.54 of 2012, further Appeals under Section-72 of the Act came to be filed, respectively being CMA DC No.21 of 2023 and CMA DC No.20 of 2023. The said Appeals came to be disposed of by a Common Judgment and Order dated 26.09.2024. Vide the said Common Judgment and Order, the matters came to be remanded before the Deputy/Assistant Charity Commissioner for fresh inquiry in the Change Report No.54 of 2012, after according proper opportunities.

14. Having been aggrieved by the Order dated 28.12.2022 passed in Scheme Application No.17 of 2015, Ravilal Kesra Patel and Pathai Hirjibhai Bhanushali preferred an Appeal under Section-72 of the Act by way of CMA DC No.158 of 2023. In another parallel development, in the Year-2023 itself, the present Respondent No.5 Sadhu Bharatdas Guru Karasandasji, had also preferred a Change Report being Change Report No.119 of 2023 to remove the name of Sadhu Karsandasji Guru Shanti Ramnji form the records and to enter his name in place of Sadhu Karsandasji Guru Shanti Ramji.
15. The Appeal – CMA DC No.158 of 2023, was allowed by an Order dated 26.09.2024 and the matter was remanded back to the Joint Charity Commissioner for fresh inquiry after according proper opportunities.
16. The decisions in CMA DC No.20 of 2023, CMA DC No.21 of 2023 and CMA DC No.158 of 2023, all of them, being separate orders, and all dated 26.09.2024, came to be challenged by way of three First Appeals being First Appeal No.4131 of 2024, First Appeal No.4158 of 2024 and First Appeal No.4176 of 2024 under Section-72(4) of the Act. A Co-ordinate Bench of this Court, vide Judgment dated 07.03.2025, has confirmed the Orders dated 26.09.2024 and has thus rejected the said First Appeals. Thus, the Change Report No.54 of 2012 and the Change Report N.119 of 2023 are now to be decided by the Deputy/Assistant Charity Commissioner.
17. It is the case of the respondent no.4 (of SCA No.7284 of 2025) that the Judicial Misc. Application No.41/09/2016

has been rejected. However, it is his case that the petitioners have preferred another Application, being Judicial Misc. Application No.41/06/2025, dated 18.04.2025 under Section-41A and Section-69 of the Act, before the Joint Charity Commissioner, Rajkot for appointment of *ad hoc* Committee for the management of Ishwar Aashram Trust along with an application seeking interim relief by way of Exhibit-4. As per the petitioners, in absence of trustee post the death of Sadhu Karsandasji Guru Shanti Ramji, the respondent no.4 was mismanaging the Trust, and therefore, the said Application was necessitated. Vide an Ex-parte Ad-interim Order dated 15.05.2025, the learned Joint Charity Commissioner, *inter alia*, issued directions that one Officer from the Office of the Deputy Charity Commissioner, Bhuj (Respondent No.3), along with the petitioners to take over the management of the Trust properties and carry on day-to-day affairs of the Ishwar Aashram Trust, Vadhay, Bhuj – Kutchh. This was so as two distinct Change Reports filed independently by the Respondent Nos.4 and 5 respectively, were pending for adjudication which translated that at that time, there was no trustee to take care of the Trust properties.

18. It is now the case of the petitioners that the said Ad-interim Order dated 15.05.2025 has been implemented. This is so as the Committee concerned has changed signatures in the bank on 20.05.2025[3]. Further, it is also the case of the petitioners that they have filed a Compliance Report dated 21.05.2025, stating that the Order dated 15.05.2025 has

[3] Refer Paragraph-5 of the SCA No.7336 of 2025.

been complied. Whereas, the Respondent No.4, under his SCA No.7284 of 2025 is challenging the Order dated 15.05.2025.

19. The petitioners submit that on 21.05.2025, the officer, working with the Respondent No.3 (Deputy Charity Commissioner, Bhuj) who was part of the Committee constituted vide order dated 15.05.2025 of the learned Joint Charity Commissioner, moved an application Exhibit-8 before the Respondent No.2 (Joint Charity Commissioner, Rajkot), whereunder, it was stated that certain factions of disciples of the late Guru Karsandasji/Opponents are trying to get control of Trust and large crowds of 150 to 200 persons are storming the premises and that police had to be called and that administrating Trust was becoming an ardent task. The learned Joint Charity Commissioner ordered ex-parte, removing the petitioners from the Committee, whilst the very officer of Respondent No.3 and appointed an additional individual being the Treasurer from the Office of the Respondent No.2 as the Committee to manage the affairs of the Trust. It is the case of the petitioners that the said Order is without any basis, as there has not been any complaint that during the period of 17.05.2025 to 21.05.2025, there has been any mismanagement of the Trust properties by the petitioners.

20. It is that the order dated 21.05.2025 which is subject matter of challenge in SCA No.7336 of 2025 as by that order the control vested with the petitioners along with an officer of respondent No.3 has been taken over and handed over to two officers respectively from the office of respondent No.3

and 2. Subsequently, it transpires that post the impugned order dated 21.05.2025, the control of the Trust has been handed over to one Dilip Chhaganbhai Patel, who according to the petitioners is Manager of respondent No.4[4]. Similarly, in SCA No.7284 of 2025 the order under challenge is the order dated 15.05.2025 passed below Exh.4 in Judicial Miscellaneous Application No.41/06/25, as by that order, the control of the Trust has been handed over to the office bear of respondent No.3 together with the petitioners of SCA No.7336 of 2025. Further, by the draft amendment which was allowed the petitioners in SCA No.7284 of 2025 are also challenging the ex parte revised/modified order dated 21.05.2025 on the ground that the said order is in violation of principles of natural justice as no hearing was afforded to the petitioner of SCA No.7284 of 2025 whilst passing the said impugned order dated 21.05.2025.

21. Thus, briefly the petitioners allege that post the passing away of Sadhu Karsandasji Guru Shanti Ramji, on 20.02.2012, there was no successor appointed and hence the formation of the Committee for managing the affairs of the Trust. Whereas, it is the case of the Respondent No.4 that he was anointed as the successor of Sadhu Karsandasji Guru Shanti Ramji by way of Chadar Vidhi. Both the petitioners and the Respondent No.4 rely on photographs and on so-called authenticated accounts of individuals present on the said occasions.

22. Heard learned advocates of the parties.

23. It may be noted that at the outset, learned GP Mr. Virk

[4] Please refer additional affidavit on behalf of the petitioners, Pg No.235 in SCA No.7336 of 2025.

appearing for Respondent Nos.1 to 3 submitted that in view of the Order dated 07.03.2025 in First Appeal No.4131 of 2024 and allied appeals, having confirmed the Order of the learned 8th Addl. District Judge, Kutch-Bhuj, none of the present petitions survive and that the Trust may be relegated to the original position as existed at the time of grant of Change Report No.54 of 2012. It was because the learned 8th Addl. District Judge, Kutch-Bhuj, had remanded the Change Report and the Scheme Application which are to be heard afresh. It was submitted that the control and management of the Trust may also be relegated back to the position as it was at the time of the filing of the concerned Change Reports and the Scheme Application. (If these contentions were to be accepted, the effect would be that the management of the Trust would be in the hands of the Respondent No.4.) He submitted that therefore fresh rights may not be crystallized when the Change Reports are pending before the respondent No.3. It was submitted that the respondent No.3 is to hear the said proceedings soon.

24. On the other hand, learned advocate Mr. Dave, appearing for the petitioners in SCA 7336 of 2025, submitted that he is amenable to the suggestions of learned GP Mr. Virk, subject to a caveat that management of the Trust may be handed over to the officer of the Respondent No.3, or, conjointly with the said officer of Respondent No.3 and that of the Treasurer, from the Office of Respondent No.2 as has been ordered under order dated 21.05.2025 on the application dated 21.05.2025. It was submitted that in such case, the fear of the petitioners in SCA No.7336 of 2025 would be

dispelled as both the rival factions would be out of the management of the concerned Trust. It was submitted that the same would be in consonance with the Ex-parte Ad-interim Order dated 15.05.2025, whereby, the learned Joint Charity Commissioner, *inter alia*, issued directions that one Officer from the Office of the Deputy Charity Commissioner, Bhuj (Respondent No.3), along with the petitioners to take over the management of the Trust properties and carry on day-to-day affairs of the Ishwar Aashram Trust, Vadhay, Bhuj – Kutch. Thus, it was submitted that none of the rival factions could be prejudiced as neutral body would be governing the affairs of the Trust and that therefore, the sanctity of the properties of the Trust would be maintained.

25. Learned advocate Shri Dave submitted that would be fair as admittedly, when the original Committee in the year 2012, had been constituted, it was constituted with the concurrence of respondent No.4. He submitted that there are photographs and minutes to support the said forming of Committee. It was reiterated that the deceased Sadhu Karsandasji Guru Shanti Ramji did not appoint any disciple to be the Gadipati/Successor. He submitted that the ad hoc Committee over passage of time has become de facto Committee in charge of the administration and control of the Trust. It was submitted that in the meantime, the respondent No.4 submitted a Change Report claiming to be the successor/Gadipati. Similarly, respondent No.5 has also filed a Change Report saying that he is the Gadi Pati and now with the remand of the matter back to the office of Assistant Charity Commissioner, the said matters (and the

Change Report of Respondent No.5) are to be decided by respondent No.3. He submitted that the proceedings under Section 41A of the Act would come into play, only during the pendency of the decision on the Change Report as the concerned provision grants supervisory power to the Charity Commissioner where the Charity Commissioner finds that there is a need for proper administration of the Trust and accounting of income of the Trust and its application to the objects and purposes of the Trust. It was submitted that the said provision has been interpreted in the judgement of ***Syedna Mohd. Burhanuddin vs. Charity Commissioner, Gujarat State,*** **1992 (1) GLH** *331* and thereafter in the matter of ***Pavankumar Jain vs. Priyavadan Ambalal Patel*** reported at **2015 (0) AIJEL-HC-233764.** It was submitted, referring to Paragraph No.10 of the judgement, that the Charity Commissioner can issue directions in exercise of powers under Section 41A in terms of the said Section, but he does not have adjudicatory powers and cannot decide lis between the parties in exercise of jurisdiction under Section 41A. The relevant paragraphs of the judgement reads as follows:-

> *"10.) For the reasons stated above and considering the scheme of the Trust Act and object and purpose for which Section 41 A of the Trust Act is enacted, restricted meaning as canvassed on behalf of the appellant that in exercise of powers under Section 41 A of the Trust Act, the Charity Commissioner can issue the directions only in respect of the matters under Sections 32 to 41 of the 5 Act cannot be accepted. As observed herein above, the Legislature has never intended to confer such narrow powers to the Charity Commissioner. The Charity Commissioner can issue the directions in exercise of*

powers under Section 41 A of the Act with respect to (A) Proper administration of a public trust (B) Proper accounting of its income (C) Due appropriation and application of the income to the objects and for the purpose of trust however, subject to provisions of the Act and Rules however as observed in the case of Syedna Mohamed Burhanuddin (supra) and other decisions, while issuing direction under Section 41A of the Act, Charity Commissioner has no adjudicatory powers *and cannot decide* lis *between the parties. Therefore, subject to the aforesaid rider, for administration of the Trust, the Charity Commissioner can issue the directions to the Trust / Trust Deed and can issue the directions to them to act as per the scheme of the Trust 15 or provision of the Trust Deed and / or Trust Act."*

(emphasis supplied)

26. It was further submitted by learned advocate Shri Dave that on various counts the impugned orders are bad. Firstly, that once vide order dated 15.05.2025, the control of the administration has been handed over to the Committee constituting the petitioners and officer of respondent No.3, any modification to that order, especially when the same is being made at the instance and on application of the officer of respondent No.3, it was imperative that the petitioners were heard. However, as no hearing for afforded to the petitioners, the said order dated 21.05.2025 therefore, is hit by principles of natural justice.

27. Further, according to learned advocate Mr. Dave, the second ground for challenging the order dated 21.05.2025 is that the said order travels beyond the application made by the officer of respondent No.3. It was submitted that the respondent No.3, in his application, did not pray for removal of the petitioners from the Committee formed under the

order dated 15.03.2025.However, the order, whilst allowing the prayer of the officer of the office of respondent No.3 for an additional officer, what was allowed was an addition of an officer from the office of respondent No.2, together with the removal of the petitioners from such Committee. It was further submitted that thirdly, the aforesaid Committee, under order dated 21.05.2025 has ceded control of the Trust to the very entity against which the application under Section 41A of the Act was made. It was submitted that the concerned Committee under order dated 21.05.2025 authorized Shri Navinbhai Haribhai Patel to look after the day to day activities. It was further submitted that additionally the Committee also authorized one Dilipbhai Chhaganbhai Patel to accept alms (i.e. to take control of alms) and issuing receipts to the concerned devotee offering alms; and for depositing the said amounts with the Bank. It was argued by learned advocate Shri Dave that the said Dilipbhai is the Manager of Respondent No.4 and Shri Navinbhai Patel is also reporting to the respondent No.4 as Shri Navinbhai Patel is the Accountant of Respondent No.4. It was further submitted that similarly, the Committee under order dated 21.05.2025 had allotted the responsibility of Gau Shala to one Karshanbhai Dolubhai Singhal[5]. This, according the learned advocate Mr. Dave, is beyond the scope and ambit of powers of the Committee. Hence too, the Committee is not sustainable and the petitioners may be incorporated back as part of the Committee. It was submitted that the Committee appointed under order dated

[5] The Committee ceding control of various activities to aforesaid individuals is apparent from minutes dated 26.05.2025 produced at Page No.241 of SCA No.7336 of 2025.

21.05.2025 has proceeded to cede control of the Trust to the aforesaid individuals, who are connected to respondent No.4 thereby. This was so done though the present matter had been permitted to be circulated by that time and express letter pointing out the said fact dated 26.05.2025 was addressed to the said Committee (Shri R.K.Prajapati, Administrator) and yet, to overreach the process of Court, the said acts had been undertaken by the Committee. It was also submitted that the impugned order dated 21.05.2025 amounts to reviewing the order dated 15.05.2025 when there is no inherent power to review orders passed by a Joint Charity Commissioner. He, however, submitted that in all fairness he is prepared to let the Committee of two members under the order dated 21.05.2025 to continue to administer the Trust till Change Reports and the decisions on the scheme is arrived at provided that the Committee does not cede control to any person connected to respondent No.4.

28. On the other hand, learned advocate Shri Virk submitted that irrespective of the stand that the learned advocate Mr. Dave for the petitioners take, it remains a fact that in his application under Section 41A of the Act dated 18.04.2025, the petitioners had prayed for constitution of Committee, wherein they comprised the entire Committee. Thus, it was submitted that the petitioners are power hungry individuals and may not constitute ideal followers of Shri Sadhu Karsandasji Guru Shanti Ramji.

29. However, to the suggestion that the Committee together with officer from the office of Respondent No.3 or the officers from

the office of Respondent No.3 and Respondent No.2 together conducting the affairs of the Trust till the Change Reports and the Scheme are decided, learned advocate Mr.Desai appearing for the petitioners in SCA No.7284 of 2025 did not agree. Learned advocate Shri Desai appearing for the petitioner in SCA No.7284 of 2025 (i.e, the respondent No.4 in SCA No.7336 of 2025) submitted that he is challenging both the orders, as both the orders are in breach of the principles of natural justice. Moreover, it is the contention of the learned advocate for the respondent No.4 that the very person who was complaining for the alleged mismanagement has been put in control vide orders dated 15.05.2025, instead of putting a neutral person/body in control of the Trust. It was submitted that in any case the respondent No.4 is the main disciple of deceased Shri Sadhu Karsandasji Guru Shanti Ramji and the two consecutive authorities, namely in the proceedings concerning Change Report and in the appeal under Section 70 of the Act, the said position has been confirmed. It was also submitted that despite the argument of the other side that proceedings under Section 22 (for adjudicating the Change Report) and under Section 41A are not connected, but in fact, they are connected, as the very objections under Section 22 would be the objections to proceedings under Section 41A of the Act Act. It was submitted that allowing the Committee appointed under Section 41A vide order dated 15.05.2025 by this Court would amount to allowing by interim relief, the very ex parte relief that they had obtained before the Charity Commissioner under Section 41A. The same would be in

breach of the principle that final relief cannot be granted under interim relief. For the said purpose reliance was placed on the ratio of judgement in ***State of U.P. and another vs. Ram Sukhi Devi***, reported at **(2005) 9 SCC 733**[6]**.** It was also submitted that earlier too, in the year 2016 an application under Section 41A of the Act Act was preferred which was rejected with costs. It was submitted that against the same, writ petition[7] is pending before this Court, but no interim relief has been granted. Reference to the order dated 28.12.2022 in the said proceedings at continuous Page No.237 in SCA No.7284 of 2025 was made. It was submitted that, thus, from the said proceedings also it is apparent that it was the respondent No.4, who was in control of day to day affairs of the Trust. It was further submitted that though the allegations are of mismanagement, there is no specific allegation as to alleged monies having been siphoned off, or, that the affairs of the Trust were mismanaged. The allegations are totally vague and without particulars. It was submitted that just as the petitioners crib over the alleged breach of principles of natural justice (no opportunity of hearing) the fact remains that even the respondent No.4 was not issued any notice in respect of the order dated 15.05.2025 in proceedings under Section 41A of the Act. He, thus, submitted that till the Change Reports and proceedings under Section 41A are decided, the Respondent No.4 be continued as the individual in charge of affairs of the Trust.

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6 Paragraph No.8 of the judgement was relied.

7 SCA No.1929 of 2023, where, as per the submission of the learned advocate, no interim relief has been granted so far.

30. Having heard the learned advocates for the parties, this Court proceeds to decide the present lis in terms appearing hereinafter.

31. Undisputedly, it was the respondent No.4 who had filed the Change Report in the year 2012, which came to be allowed in the year 2017. The same was to the knowledge of the petitioners and they had also filed objections to the said Change Reports. It is also the case of the petitioners that it was on the 13th day of March, 2012, during the Bhadra Utsav that it was decided that a Committee be formed and that on 02.04.2012 in presence of respondent No.4, and under the signatures of various individuals including the respondent no.4 that the minutes of the meeting was recorded. However, the fact remains that by that time, i.e. on 29.02.2012, itself the Change Report was filed by the respondent No.4 with an aim to remove the name of Sadhu Karsandasji Guru Shanti Ramji from the records and to insert his name in the records. The said Change Report No.54 of 2012 came to be allowed on 11.05.2017. Indeed, it is not the contention of the petitioners that the Committee was in charge of the affairs of the Trust. Rather, it is their case that from the day of the death of Sadhu Karsandasji Guru Shanti Ramji, the respondent No.4 was mismanaging the Trust and its property[8].

32. It appears that the said control of the respondent No.4 over the Trust properties continued till the appeals under Section 70 against the grant of the Change Report of the respondent No.4, were disposed of as dismissed on 28.12.2022.

[8] Please refer paragraph No.3 of the SCA No.7336 of 2025.

33. However, by order dated 26.09.2024, the appeals under Section 72 came to be decided wherein direction for remanding the matter to the Deputy Charity Commissioner for fresh inquiry came to be issued. There is no averment even post such remand also, that the respondent No.4 was not in control of the Trust properties.

34. Admittedly, the allegation is that the respondent No.4 is mismanaging the affairs of the Trust and therefore the petitioners have preferred application under Section 41A of the Act, 1950 in the year 2025. It appears that initially, for a brief period in 2025, the petitioners were put in control of the Trust properties, however later on, the authority under the Act itself has changed the complexion of the Committee, under Section 41A of the Act by removing the petitioners from such Committee, whilst retaining the officer from the office of Respondent No.3 and incorporating an officer from the office of Respondent No.2. That being the case, the petitioners are not in control of the Trust as of now.

35. The question, therefore, is that till the time the Assistant Charity Commissioner decides the fate of the applications being the Change Report and the Scheme, the Charity Commissioner takes a decision on with whom should the administration of the Trust remain.

36. Though the orders have been passed by the respondent No.2 under Section 41A of the Act constituting a Committee, the said order is apparently silent on the actual mismanagement/abuse of the property of the Trust by the respondent No.4. Even prima facie satisfaction to the aforesaid allegation does not appear to have been arrived at

in the impugned order dated 15.05.2025. It also does not discuss that if indeed there was no individual in charge of the Trust properties from 2012 post the death of Shri Sadhu Karsandasji Guru Shanti Ramji, with whom did the management actually vest and who did conduct the affairs of the Trust from 2012 till 2025. If the Committee formed in 2012, immediately after the death of Shri Sadhu Karsandasji Guru Shanti Ramji, was indeed in the charge, how was the charge ceded to respondent No.4 as the allegation by the petitioners is that it was the respondent no.4 who was allegedly mismanaging the affairs of the Trust. Was it the Committee, allegedly constituted post the death of Shri Sadhu Karsandasji Guru Shanti Ramji that had ceded control to respondent No.4? Or was it post the Change Report No.54 of 2012 that the respondent No.4 had assumed the control of the affairs of the Trust? If it was the latter, then the contentions in application under Section 41A that there was nobody in charge of the affairs of the Trust post the death of Shri Sadhu Karsandasji Guru Shanti Ramji, becomes unpalatable. Again, the impugned order dated 15.05.2025 is conspicuous by the absence of reference to Change Report No.54 of 2012 having been allowed earlier and the said proceedings having been remanded back to the Assistant Charity Commissioner under the order of the 8th Additional District Judge, Kutch-Bhuj. In the circumstances, the said order becomes vulnerable and is accordingly set aside. Consequently, the later order dated 21.05.2025, removing the petitioners and incorporating additional officer from the office of respondent

No.2 also is liable to be done away with. Naturally, the objection of learned advocate Shri Dave against restoring status quo, for the reason that it would reinstate the respondent No.4 who does not have legal recognition, is not sustainable as prima facie, it is the Respondent No.4 who is in default control over the affairs of the Trust. The fact remains that nothing material against the said respondent No.4 has been brought to the notice of this Court, nor pleaded in the proceedings pertaining to 41A. Therefore, it appears that the petitioners have certain disputes with the respondent No.4 which have culminated to such extensive proceedings.

37. Thus, the management ought to remain with respondent No.4 for the fact that Section 41A does not bestow adjudicatory powers to the Charity Commissioner and that its exercise ought to be with adequate circumspection ensuring so that under the guise of applications under section 41A, personal scores are not settled.

38. As such, the fate of the Scheme and the applications under Section 22 (Change Reports) are to be decided by the Joint Charity Commissioner and Assistant Charity Commissioner respectively. It is directed that the same be decided at the earliest. In the interregnum, the respondent No.4 who is more or less in de facto charge of the affairs of the Trust shall continue to administer the Trust.

39. This Court clarifies that it has not gone into the merits of the contentions of the rival sides and observations, if any, on merits would prejudice the contentions of the parties before the Assistant Charity Commissioner and, therefore, they be

treated as discussion only for deciding the present writ petition. Thus, whilst deciding the contentions under the Scheme and that on the Change Reports, the Joint Charity Commissioner or the Assistant Charity Commissioner, shall decide the same without being influenced by any observations by this Court in this order. The parties shall not take unnecessary adjournments so as to facilitate early decision in the said matters.

40. Both these petitions stand disposed of and allowed to the extent of quashing and setting aside the impugned orders under Section 41A of the Joint Charity Commissioner dated 15.05.2025 and 25.05.2025 and to the extent that it shall be Respondent No.4 who shall administer Trust till the decision on the remanded Scheme and Change Report is arrived at, by the authorities under the Act, 1950.

(J. L. ODEDRA, J)

SUDHIR

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: SUDHIR ACHUTHAN EZHUTHASSAN(HC00192), GOV, at High Court of Gujarat on 08/12/2025 17:13:44