



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2626 OF 2024

Maharashtra District Councils Of South India Assemblies Of God Thr Poa
Datta Baburao Amo And Others

VERSUS

Sonali Sachin Chakranarayan And Others

Mr. R. R. Karpe, Advocate for Petitioners

Mr. V. S. Waghmare, Advocate for Respondent No. 3

CORAM : R. M. JOSHI, J.

DATE : 07th March, 2025

PER COURT :-

1. This petition takes exception to the order dated 08.01.2024 passed below Exhibit 20 in Regular Civil Suit No. 295/2022 which is filed for declaration that defendants have no right in the suit property and that they shall not obstruct plaintiffs from conducting their activities in the church. In the said suit, an application came to be filed by intervener contending that he is secretary of the trust and that the plaintiffs have no right to file the suit. This application is allowed by the Trial Court with the observation that the issues sought to be raised by the Intervener i.e., change report. Right of the plaintiffs on the basis of the said change reports are subject matters of the suit.

2. Learned counsel for petitioners/plaintiffs submits that Trial Court has committed error in not considering the scope of order I Rule 10 of the Code of Civil Procedure. It is his submission that unless the

person who seeks impleadment is necessary or proper party, such impleadment cannot be allowed. It is his submission that this is not the case wherein the relief is sought against intervener or there is litigation against the interest of the trust.

3. Learned counsel for Respondent No. 3, intervenor before Trial Court submits that the applicant has raised objection to the maintainability of the suit on the ground that the plaintiffs have no authority to file suit on behalf of the trust. It is his contention that orders passed in change report indicates that the plaintiffs did not get any right to file suit on behalf of the trust. In this regard, reference is made to the resolution passed by the trustees dated 29.07.2021 whereby petitioners were suspended from the membership of the trust. It is his submission that defendants are appointed by the respondent and that the suit is filed in order to cause harassment to defendant therein.

4. Even if the contention of the contesting respondent is accepted to be correct that suit is filed to cause alleged harassment to the defendants, same would not become a ground for permitting his impleadment as a party defendant to the suit. As far as issues with regard to the correctness of the order passed in change report or the status of either side as a trustee of the trust, cannot be a subject matter for decision before the Civil Court. The provisions of Maharashtra Public Trusts Act provide for the forum to decide the said issues.

5. This Court, therefore, finds substance in the contention of the learned counsel for petitioners that reason recorded in the impugned order for allowing the application that these issues are subject matter of the suit is perverse. The Civil Court has no jurisdiction to enter upon on the said controversy which otherwise could be decided by the Authorities under the Trust Act.

6. In order to permit application for refusal as a party defendant in Order I Rule 10 of the Code of Civil Procedure, it was incumbent on the part of defendant that he is necessary or proper party. There is absolutely no material on record to indicate so. Merely, because it is a case of the applicant that the suit is filed to cause harassment to the defendant, the same cannot become a ground for allowing him to join himself as a party defendant. Since, order impugned is contrary to the provision of Order I Rule 10, cannot sustain.

7. Petition is allowed. Application Exhibit 20 filed in Regular Civil Suit No. 295/2022 stands dismissed.

(R. M. JOSHI, J.)

bsj