

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2532 OF 2024

Kurundwad Shahar Patrakar Sangh & Ors.Petitioner
V/S
Babasaheb Narayan More & Ors.Respondents

Mr. Samir A. Vaidya with Mr. Aditya Parmar, Mr. Zainab Khan, Ms. Latika Kabad, Ms. Kavita D. Vijapure i/b Mr. Kiran G. Kulkarni *for the Petitioners.*

Mr. Gajanan M. Savagave *for Respondent No.1.*

Mr. Hamid Mulla, AGP *for Respondent No.4 / State.*

CORAM: SANDEEP V. MARNE, J.
DATE : 25 FEBRUARY 2025.

P.C.:

1. **Rule.** Rule is made returnable forthwith. With the consent of the learned counsel appearing for parties, the Petition is taken up for final hearing and disposal.
2. The Petition challenges order dated 9 November 2023 passed by the Joint Charity Commissioner, Kolhapur in Application No.2 of 2014 filed under provisions of Section 41B of the Maharashtra Public Trusts Act, 1950. (**the Act**). By the impugned order the Joint Charity Commissioner has allowed Application No.2 of 2024 and has directed the Petitioner-Trustees

to set right the issue within 30 days failing which action was to be initiated under provisions of Section 41D of the Act.

3. I have heard Mr. Vaidya, the learned counsel appearing for Petitioners, Mr. Savagave, the learned counsel appearing for Respondent No.1 and Mr. Mulla, the learned AGP appearing for Respondent No.4/State.

4. After having considered the submissions canvassed by the learned counsel appearing for parties, it is seen that the Application filed by Respondent No.1 was premised on a fallacious statement that the Collector had allotted the land in favour of the Trust by order dated 29 May 2012. Perusal of the order dated 29 May 2012 would indicate that the land admeasuring 40 R was allotted in the name of proposed Housing Society and not in the name of the Trust. Thus the very application filed by Respondent No.1 was premised on an erroneous statement. The Joint Charity Commissioner has failed to appreciate that the allotment of plot is not in the name of Trust but the same is in the name of proposed Housing Society. In that view of the matter, any actions taken *qua* management of affairs of the said Society could not have been made subject matter of proceedings under Sections 41B or 41D of the Act by invoking jurisdiction of the Joint Charity Commissioner. The impugned order is found to be wholly without jurisdiction.

5. The Petition accordingly succeeds. Order dated 9 November 2023 passed by the Joint Charity Commissioner is set aside. Writ Petition is **allowed** in above terms. Rule is made absolute. There shall be no order as to costs.

SUDARSHAN
RAJALINGAM
KATKAM

(SANDEEP V. MARNE, J.)

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