

VRJ

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

WRIT PETITION NO.9520 OF 2022

Niteen Mahadeo Ghadigaonkar & Ors. ... Petitioners

V/s.

Kalsuli Gramdevalaya Vyavasthapan

Nyas, Kalsuli, Through Trustees

Raghunath Bhau Dalvi & Ors. ... Respondents

Mr. Satyajeet A. Rajeshirke with Mr. Gautam R.
Kulkarni for the petitioners.

Mr. Sanjay D. Rayrikar, AGP for the State

CORAM : S. G. CHAPALGAONKAR, J.

DATED : SEPTEMBER 29, 2025

P.C.:

1. Heard learned advocates appearing for respective parties.
2. The present writ petition is filed impugning the judgment and order dated 29th August 2018, passed by learned Joint Charity Commissioner, Kolhapur, in Revision Application No.14 of 2017.
3. Learned advocate appearing for petitioners submits that learned Assistant Charity Commissioner, Sindhudurg Division, Sindhudurg, passed an order dated 18th January 2014 in Enquiry Application No.46 of 2002, directing registration of public trust. Said order was assailed before learned Joint Charity Commissioner, Kolhapur, in Revision Application No.14 of 2017.

The learned Joint Charity Commissioner, Kolhapur, framed issues and held that inquiry conducted by learned Assistant Charity Commissioner, Sindhudurg, in Enquiry Application No.46 of 2002 and order dated 18th January 2014 are bad in law, as requisite procedure contemplated under Rule 7A(3) was not followed and notice to persons who are in occupation or possession of alleged trust properties was not served.

4. According to learned advocate appearing for petitioners, once such a finding is recorded, order passed by the Assistant Charity Commissioner ought to have been completely set aside. However, learned Joint Charity Commissioner maintained order to the extent of registration of trust and remanded matter only for the purpose of inquiry as to whether ownership of properties vest with trust or not. According to him, for the reasons recorded by learned Joint Charity Commissioner, Kolhapur, order dated 18th January 2014 passed by learned Assistant Charity Commissioner, Sindhudurg, ought to have been set aside, and re-inquiry ought to have been directed on all the questions arises for consideration in the inquiry proceeding for registration of trust.

5. Learned advocate appearing for respondents objects to

entertaining writ petition as the impugned order is passed on 29th August 2018, whereas the present writ petition is filed in the year 2022. According to him, writ petition deserves to be dismissed on account of delay and laches. He would further submit that, in fact, learned Assistant Charity Commissioner had followed due procedure as contemplated under law. The notice by paper publication was given, and thereafter, registration of the trust was directed. He would, therefore, support the impugned order.

6. Having considered the submissions advanced, it can be observed that matter pertains to registration of a trust. Learned Assistant Charity Commissioner is required to follow procedure contemplated under law, particularly opportunity needs to be given by issuing notice to all persons who are in occupation or possession of alleged trust property, and then only consider to issue direction for registration of the trust. In the present case, learned Joint Charity Commissioner has specifically observed that notice contemplated under Rule 7A was not issued to persons who are in occupation or possession of properties which are subject matter of proposed trust. Once a finding is given that mandatory requirement of giving notice in terms of Rule 7A and publication of

notice is found defective, the order passed by learned Assistant Charity Commissioner ought to have been set aside in its entirety. A partial remand, only for inquiry as to properties of trust, cannot be countenanced in the facts of case.

7. In that view of the matter, writ petition is allowed.
8. Impugned order dated 29th August 2018, passed by learned Joint Charity Commissioner, Kolhapur, in Revision Application No.14 of 2017, is modified.
9. Order passed by learned Assistant Charity Commissioner, Sindhudurg Division, Sindhudurg, dated 18th January 2014 in Enquiry Application No.46 of 2002, is quashed and set aside.
10. Learned Assistant Charity Commissioner, Sindhudurg Division, Sindhudurg shall consider Enquiry Application No.46 of 2002 afresh and render his decision on all the relevant issues after following due process of law.
11. Pending interlocutory application(s), if any, stand disposed of.

(S. G. CHAPALGAONKAR, J.)