



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

Civil Application [CAW] No.1272 of 2025

in

Writ Petition No.4927 of 2023

Anil s/o Govindrao Shirkhedkar

vs.

Babnrao s/o Ganpatrao Wadaskar (Dead) and others

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. R.G. Kavimandan, Advocate for the Applicant/Petitioner.

Mr. Anup Gilda, Advocate for the Non-Applicant/Respondent Nos.2 to 5 & 7 to 9.

Mrs. Mrunal Naik, A.G.P. for Respondent Nos.10 & 11.

CORAM: ROHIT W. JOSHI, J.

DATE : 4th NOVEMBER, 2025.

Heard.

02. The present application is filed for bringing legal representatives of the deceased-petitioner on record. The petition arises out of the proceedings under the Maharashtra Public Trusts Act, 1950 (*hereinafter referred to as "Act" for short*) for framing of a scheme. The petitioner had challenged order dated 23/03/2018 passed by the learned Assistant Charity Commissioner in Inquiry No.31/2000(R), framing a Scheme under Section 50-A of the Act and the order dated 21/03/2023 passed by the learned Joint Charity Commissioner, Amravati Region, Amravati in Appeal No.73/2018 dismissing appeal arising out of the said order.

03. The contention of the deceased-petitioner was that the Office of Trustees of Shri Maruti Devasthan, Wedhapur is a hereditary office and no person other than the family members of Shirkhedkar family can be appointed as a trustee. However, under the Scheme, 11 trustees are appointed, one of which should be a member of

Shirkhedkar family and the Office of Trustees occupied by the member of Shirkhedkar family is held to be a hereditary office.

04. Mr. Gilda, learned Advocate for the respondents, raises an objection that since the controversy in the petition pertains to public trust, application for bringing legal representatives on record under Order 22 Rule 3 of the Code of Civil Procedure (Code) will not be maintainable and the application will have to be considered as one under Order 22 Rule 10 of the Code. He contends that all the legal heirs of the deceased-petitioner and other family members cannot claim to be legal representatives of the deceased-petitioner. According to him, only such person, as is recognized by the learned Charity Commissioner, can be allowed to prosecute the petition on behalf of the deceased-petitioner. In support of his contention, Mr. Gilda has placed reliance on judgment of this Court in the matter of *Abaji Daulata Yadav, since deceased by his heirs and others vs. Dhondiram Jagedevrao Yadav and others*, reported in *1993 Mh.L.J. 588*.

05. Perusal of the said judgment will indicate that the issue arose in a civil suit, where the question of validity of a Scheme framed was not an issue. In this context, this Court has held that only such person/s, who is/are recognized as a trustee even in a case of office of a hereditary trustee, will be entitled to be brought on record as legal representative of the deceased-trustee.

06. In the present case, the subject matter of challenge is a Scheme framed under Section 50-A of the Act. The deceased-petitioner raised a contention that no person other than member of Shirkhedkar family should be allowed to hold the office of trustee of the subject trust. In such situation, the right to contest the petition shall vest with members of Shirkhedkar family. It must also be stated

that in such miscellaneous application, where only the right to prosecute the petition is to be considered, it is not necessary to decide the right to hold the Office finally. Therefore, keeping the objection open, the civil application is allowed. The names of applicants are permitted to be brought on record as legal representatives of the deceased-petitioner.

07. Necessary amendments be carried out before 14th November, 2025.

JUDGE

**sandesh*