



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

SECOND APPEAL NO. 337 OF 2022

Shri Sudhakar s/o Narhari Chimote **Vs.** Shri Ganesh Education Society and ors

*Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order*

Court's or Judge's Order

Mr. Y. V. Nayyar, Advocate for appellant.

Mr. P. V. Vaidya, Advocate for respondent Nos.5 and 7.

CORAM : ROHIT W. JOSHI, J.

DATE : 13.10.2025.

. Heard the learned Advocate for the parties.

2 The present appellant has suffered a decree for possession in a suit filed against him by the present respondents. Respondent No.1 is a public trust registered under the Maharashtra Public Trust Act, 1950 (for short "the MPT Act"). The other respondents are the trustees of respondent No.1.

3. Respondent No.1 had filed suit for possession against the appellant, being Special Civil Suit No.620 of 2014. The said suit was dismissed by the learned Trial Court vide judgment and decree dated 17.09.2016. In the said suit, findings with respect to ownership are recorded in favour of respondent No.1. However, the suit came to be dismissed on the ground that permission from the Charity Commissioner, as contemplated under Section 50 of the MPT, Act was not obtained.

4. Aggrieved by the dismissal of the suit, the respondents preferred a First Appeal, being Regular Civil

Appeal No.92 of 2020, which has been allowed by the learned District Judge-1, Nagpur vide judgment and decree dated 12.07.2022. The learned First Appellate Court has referred to Sections 50 and 51 of the MPT Act and judgments of this Court explaining the legal position with respect to interpretation of the said provisions and has arrived at a conclusion that when a suit for recovery of possession is filed by a public trust and/or its trustees, permission as contemplated under Section 50 of the MPT, Act is not required. The learned First Appellate Court has confirmed the finding recorded by the learned Trial Court that respondent No.1 is the owner of the suit property.

5. Mr. Y. V. Nayyar, learned Advocate for the appellant, contends that permission under Section 50 of the MPT Act is required even in order to recover possession of immovable property belonging to a public trust, which is in possession of a trespasser or any person not having any right, title or interest over the said property.

6. Perusal of Section 50 of the Act, will demonstrate that such permission is required only where two or more persons having interest in the trust intend to file a suit for possession. The said provision is not attracted when the trust itself or its trustees institute a suit for possession.

7. Mr. Vaidya, learned Advocate for the respondents, has rightly placed reliance on the judgments of this Court in the matter of *Surayya Afzal Khan...Vs...Raza Shah Fakir Takiya*, reported in *2006 (4) MhLJ 544* and in the matter of *Devi Mahadeo Mandir Trust...Vs...Mukundwadi Co-operative Housing Society Ltd.*, reported in *2017 DGLS (Bom) 522* which negate the contention advanced by the learned Advocate for the appellant.

8. In view of the aforesaid, no substantial question of law arises for consideration.

9. Accordingly, the Second Appeal stands **dismissed** with no order as to costs.

(ROHIT W. JOSHI, J.)

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