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

**CIVIL APPLICATION (CAW) NO. 2239 OF 2024**
**IN**
**WRIT PETITION NO. 2607 OF 2024**

Mahila Utkarsha Pratishthan Risod through its Secretary
Ashok Narayan Gandole and others
..VS..
Bhavna Pundlikrao Gawali and others

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| Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders | Court's or Judge's orders |
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| | Mr. R. L. Khapre, Senior Advocate assisted by Mr. Mahesh Dhandekar, Advocate for petitioners.<br>Mr. H. D. Dubey, AGP for respondent Nos.2 to 4.<br>Mr. S. P. Dharmadhikari, Senior Advocate assisted by Mr. C. S. Dharmadhikari, Advocate for respondent Nos.1, 7, 9 & 10<br>Ms. Upasana Jain, Advocate h/f. Mr. N. S. Deshpande, Advocate for respondent No.5. |

**CORAM : SMT. M.S. JAWALKAR, J.**
**DATED : 27th FEBRUARY, 2025**

1. The present application is filed by the petitioners for grant of permission to amend the petition as well as for addition of parties/respondents.

2. The present petition is filed challenging the order passed by Assistant Registrar of Societies, Washim under Section 13 of the Societies Registration Act, 1860 (for short the “Registration Act”). It is contention that respondent No.1, in spite of having knowledge that there is huge liability of income tax upon the Trust, suppressed the same from the Authority and the learned Assistant Registrar of Societies, without conducting any inquiry

about the liability and assets in spite of pointing out by the petitioners, passed the impugned order. It is a matter of record that respondent No.1 and 7 are the trustees of the petitioner No.1 - Trust, so also, the petitioner Nos.3, 4, 5, 7 and 12 are the trustees of the Trust in question and their names are recorded in Schedule-I. The Trust is running Educational as well as Charitable units, some of which are grant-in-aid.

3. It is contention of the petitioners that respondent Nos.1 and 7 prepared a fraudulent and bogus resolution and applied for dissolution of the society under Section 13 and 14 of the Registration Act, before the respondent No.2. It is also contention that in case there is a dispute amongst the trustees, the jurisdiction lies with the Civil Court to decide the issue of dissolution and the settling of the liabilities of the Society. The respondent No.1 has not issued any public notice or notice of inquiry. There was no public notice issued before passing of an order of dissolution nor any full-fledged inquiry was conducted. No opportunity of hearing was granted to the petitioners and passed the order whereby allowing the dissolution of the Society under Section 13 and 14 of the Registration Act. The said order is under challenged in the petition. Now, the petitioners have moved the present application for amendment and addition of parties as referred above.

4. In the present application, it is contended that though it was brought to the notice of the Authority,

learned Assistant Registrar of Societies that huge liability of income tax upon the Trust is there, however, this fact was suppressed. It is also alleged that respondent No.1 transferring the assets of petitioner No.1 – Trust to the Section 8 Company allegedly registered, which is quite apparent from the entries effected in the 7/12 extract of the land belonging to the petitioner No.1 – Trust. It is submitted that the Trust was registered under Section 12-A of the Income Tax Act, 1961 and without seeking prior permission/no objection from the Department of Income Tax, the assets of the petitioner No.1 – Trust are shown to have been transferred to the Section 8 Company. The respondent No.6 – Section 8 registered Company is not registered under Section 12-A of the Income Tax Act, 1961 and as such, the assets of the Trust are transferred to the said Company. It is further contended that an observing all these apparent violation of law, the Department of Income Tax has raised the questions against the entire process and issued summons in the name of the petitioner No.1 - Trust under Section 131 (1-A) of the Income Tax Act, 1961. The petitioner No.1 – Trust was directed to disclose the nature and source of the amount of Rs.18,18,40,867/- and also the amount of Rs.7,00,00,000/-, which was alleged to have been stolen by the petitioner No.3 and the other petitioners from the office of the petitioner No.1 – Trust.

5. It is contention of the petitioners that the Income Tax Department raised a substantial objection to the

dissolution of the petitioner No.1 – Trust and alleged transfer of the assets to the respondent No.6 Company and, therefore, they are necessary parties. It is further contended that said impleadment of the Income Tax Authorities i.e. "Assistant Director of Income Tax" and "Deputy Commissioner of the Income Tax" would assist this Court to decide the real issue involved in the controversy, same would also minimize the multiplicity of litigation. In addition to this, the petitioners seek permission to amend the petition by way of adding paragraphs 58-A to 58-G. It is contended that those are subsequent developments, which are relevant to the subject matter under consideration before this Court.

6. The respondents vehemently opposed the application. It is contended that the Income Tax authorities are not at all necessary parties. This Court while sitting singly cannot exercise jurisdiction under Article 326 of the Constitution of India. So far as subsequent events are concerned, all events are not subsequent. Even the details which the petitioners wanted to be placed on record through Authority of Income Tax, those are available with the Authorities, for that it is not necessary to add them as a parties in the matter. The petitioners can obtain that information under Right to Information Act. Even, the Authorities can call this information by issuing summons.

7. Heard both the parties and considered the documents filed on record.

8. Though, it is contended by the petitioners that the Income Tax Officers are necessary parties, in my considered opinion that no direction can be issued against those respondents under Article 227 of the Constitution of India wherein this Court can exercise supervisory jurisdiction, at the most can issue writ of certiorari. The respondents informed to the Court that the assessment of the accounts by the Income Tax Department is going on and even if it is finalized, there is hierarchy of the Authorities to challenge the same. As such, in my considered opinion, it is not necessary at all to add them as parties/respondents. So far as other amendment is concerned regarding subsequent facts to be taken on record, I do not see any impediment in allowing this application to the extent of amendment by way of addition of para 58-A to 58-G.

9. As such, the application is **partly allowed**.

10. The prayer for addition of parties of respondent Nos.11 and 12 is hereby rejected and the prayer to the extent of addition of paragraph Nos.58-A to 58-G is hereby allowed.

11. Necessary amendment to be carried out by 07.03.2025.

12. The Civil Application stands **disposed of**.

**<u>WRIT PETITION NO. 2607 OF 2024</u>**

List the matter on **13.03.2025**.

**(SMT. M.S. JAWALKAR, J.)**

*Kirtak*