



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

FIRST APPEAL NO. 118 OF 2023

The Methodist Episcopal Church,
Civil Lines, Nagpur through it
Trustees :-

- 1) **Gireesh S/o Sumant Biwalkar,**
Aged about 78 years, Occ.- Retired,
R/o. Mure Memorial Hospital Quarters,
Maharajbagh Road, Sitabuldi,
Nagpur – 440001.
- 2) **John Mathew S/o. Moses David,**
Aged about 76 years, Occ.- Retired,
R/o. 86, Mecosabag, Christian Colony,
P. O. Bezanbagh, Nagpur – 440004.
- 3) **Anil S/o. Vimal Das,**
Aged about 57 years,
R/o. Rathore Layout, Near
Anant Nagar, Nagpur – 440013.
- 4) **Ajay S/o Manoharrao Waghchoure,**
Aged 55 years, Occ.- Service,
R/o. St. Ursula Compound,
Civil Lines, Nagpur - 440001.
- 5) **Mrs. Asha Abhinash Landge,**
Aged about 60 years, Occ.- Housewife,
R/o. 1/5 Star Key Town, P.W.D.
Quarters, Mangalwari Bazar,
Nagpur – 440001.
- 6) **Vinod S/o Durlabhnand Pramanik,**
Aged about 60 years, Occ.- Business,
R/o. Prem Nagar Road, Itwari,
Bastarwari, Nagpur – 440002.

- 7) **Mrs. Lilly Christina Das W/o Vimal K. Das,**
Aged about 78 years, Occ.- Retired,
R/o. 47-F, Rathore Layout,
Nagpur – 440013.

.... **APPELLANTS**

// **VERSUS** //

- 1) **Methodist Church in India/
Executive Board of Methodist
Church in India,** through its
General Secretary, Methodist
Centre, 21-YMCA Road, Mumbai
Central, Mumbai-8.
- 2) **Regional Executive Board,
Maharashtra Regional Conference,**
The Methodist Church in India,
Through its Executive Secretary,
21-YMCA Road, Mumbai Central,
Mumbai-8.
- 3) **District Superintendent,**
Methodist Church in India,
Nagpur District, R/o. Mecosabagh
Girls Hostel, Nagpur.
- 4) **Ind Agro Synergy Ltd.,**
Through it's Managing Director,
Satish Murarilal Goel,
6-Daga Layout, North Ambazari
Road, Nagpur.
- 5) **Satish Murarilal Goel,**
Aged about 51 years, Occ.-Business,
R/o. 6-Daga Layout, North Ambazari
Road, Nagpur – 440033.
- 6) **Aaditya Satish Goel,**
Aged about 25 years, Occ.-Business,
R/o. 6-Daga Layout, North Ambazari
Road, Nagpur.

- 7) **Mrs. Uma Satish Goel,**
Aged about 45 years, Occ.-Business,
R/o. 10-Daga Layout, North Ambazari
Road, Nagpur.
- 8) **M/s Jagdamba Roller Flour Mills Pvt. Ltd.,**
through its Authorized Signatory
Pradeep Kumar S/o Prabhudayal Agrawal,
R/o. 25, "Shiv Shell" Apartment,
Shradhanandpeth, Nagpur.
- 9) **M/s Uma Plantations Pvt. Ltd.,**
through its Authorized Signatory
Pradeep Kumar S/o Prabhudayal Agrawal,
R/o. 25, "Shiv Shell" Apartment,
Shradhanandpeth, Nagpur.
- 10) **M/s Satish Goel Enterprises Pvt. Ltd.,**
624-Urla Industrial Estate, Raipur,
through its Director, Satish Murarilal Goel,
Aged about 52 years, Occ.-Industrialist,
R/o. 6-Daga Lay out, N. A. Road,
Nagpur.

.... **RESPONDENTS**

Mr. Arjun Bobde, Advocate with Mr. Y. R. Kinkhede, Advocate
and Shubhangi Jadhaio Advocate for the Appellants.

Mr. S. P. Dharmadhikari, Senior Advocate assisted by Mr. R. D.
Dharmadhikari Advocate and Aditya Goel Advocate for
Respondent Nos.3 to 8.

**CORAM : MRS. M. S. JAWALKAR AND
PRAVIN S. PATIL, JJ.**

DATE ON RESERVING THE JUDGMENT : 17.06.2025.
DATE ON PRONOUNCING THE JUDGMENT : 26.06.2025.

JUDGMENT : (Per – M. S. JAWALKAR, J.)

1. Heard. **Rule.** Rule made returnable forthwith.
2. Matter is taken up for final hearing at the stage of admission by consent of the parties and on request of the parties.

The case in brief of the Appellants is as under :

3. The Appellant is a Church established in the year 1870 at Nagpur by an American evangelist William Taylor. In the year 1880, the “Religious Societies Act, 1880” came into an existence. The trustees of the Church purchased land admeasuring 3 Acres, situated at Civil Lines, Nagpur from Dr. Rev. Alexander Garden Frazor vide Sale-deed No.20 and Church also took on lease 45 Acres of Nazul land at Wadpakad, Indora and Jaripatka in the year 1924.

4. The Executive Board of Methodist Church in Southern Asia came to India and registered itself under the provisions of Society’s Registration Act, 1860, bearing registration No.1155 of 1942-43 as well as under the Bombay Public Trust Act (Now Maharashtra Public Trust Act, 1950) (for short the “MPT Act”), which got registration No.F-405 (Maharashtra) in the year 1954. The Secretary of the Executive Board of Southern Asia filed a Change Report No. 2974/1965 to add the properties belonging to

Methodist Episcopal Church in its Schedule-1 with the sole intention to grab the properties and Church etc., clandestinely behind the back of the Appellant Church. The Assistant Charity Commissioner, Bombay vide its order dated 15.03.1966, added the properties of Appellant Church in Schedule-1 of the Respondent No.1 – Executive Board of Methodist Church in Southern Asia without conducting any enquiry as contemplated under the provisions of MPT Act and also the rules framed in the year 1951.

5. In 1982, by an amendment, Respondent No.1 i.e. Executive Board of Methodist Church in Southern Asia, had renamed as “Executive Board of Methodist Church in India” vide Change Report No.1108/1982. In the year 2000, Respondent No.1 decided to sell 9702 Sq.Mtrs. of land out of 15276.80 Sq.Mtrs. of land bearing Survey No.1677, Khasra No.177, situated near V.C.A. Civil Lines, Nagpur. The Joint Charity Commissioner, Bombay granted permission to sell 9702 Sq.Mtrs. of land to Respondent No.4 – Ind Agro Synergy, under certain terms and conditions stipulated in the said order dated 04.12.2002. The Assistant Charity Commissioner, Bombay deleted 9701 Sq.Mtrs. of land from Schedule-1 of Respondent No.1 without hearing the

Appellant Church illegally, though only 8367 Sq.Mtrs. were sold in the months of January and May 2004.

6. In the year 2007, one Late Miss Leelavati Dubey called a meeting and the local congregation resolved to register a trust under the provisions of MPT Act and also elected a Managing Committee consisting 11 trustees. The Appellant Church filed an application in the prescribed format on 02.08.2007 to register the trust. The Appellant Church also filed a Special Civil Suit No.1010/2007 for possession, declaration, cancellation of Sale-deed and perpetual injunction and further to restore the possession of 9702 Sq.Mtrs. of land, which was illegally sold to Respondent Nos.4 to 9 and also to cancel the Sale-deeds. Respondent Nos.1, 4, 5, 8 and 9 filed their Written Statement on 08.10.2007 and 15.10.2007 respectively, thereby denied all the averments made in the plaint by the Appellant trust. The Respondent Nos.1 to 3 filed an Application for rejection of the suit under Order 7 Rule 11(d) of the Code of Civil Procedure, 1908 (for short the "CPC") on the ground that the Civil Judge, Senior Division, Nagpur does not have jurisdiction to entertain the civil suit as being barred by Section 19, 20, 21 and 22A of the

MPT Act. The learned Trial Court by common order dated 28.11.2014, rejected the Applications Exhibit 53 and 56.

7. In the year 2008, The Deputy Charity Commissioner, Nagpur vide its order dated 08.07.2008, passed below Exhibit-30 and Exhibit-1, thereby disposing of the application Exhibit-30 for dismissal of the application for registration of Public Trust filed by the Respondent/Objectors and partly allowed the Exhibit-1 and thereby Certificate of "E" as per Section 19(1) of the MPT Act issued to the Appellant. In the year 2009, Respondent Nos.2 and 3 filed a Revision Application No.6/2009 under Section 70-A of the MPT Act against the order dated 08.07.2008, on the ground that they have not given consent to register the Methodist Episcopal Church while arguing Exhibit-30 as mentioned in the order. On 30.08.2010, the present Appellant filed its reply to the Revision Application objecting its maintainability along with a Counter Appeal praying therein to add the remaining 5574 Sq.Mtrs. of land in possession of the Appellant in Schedule-1. On 06.11.2018, the Respondent No.1 preferred an Application to obtain permission under Section 51 of the MPT Act to file civil suit against the Appellant to restore possession of the 5574 Sq.Mtrs. of land of the Appellant Church. The Joint Charity Commissioner,

Nagpur allowed the Revision application vide its order dated 04.10.2019, thereby setting aside the order dated 08.07.2008 passed by the Deputy Charity Commissioner, Nagpur in Inquiry Application No. 901/2007 and further rejected the registration of the Appellant Trust.

8. The Appellant preferred a Writ Petition bearing No. 7686/2019 before this Court. This Court vide its order dated 29.10.2021, dismissed the writ petition by holding that there is no corpus in the form of immovable property with the Appellant Church. The Appellant challenged the order of writ petition in SLP No.21222/2021, which was dismissed by the Hon'ble Apex Court vide its order dated 24.01.2022. Against the dismissal, a Review Petition (C) No. 301/2022 also filed by the Appellant, which also came to be dismissed on 22.03.2022. Thus, order of cancelling the registration of Appellant trust confirmed up to the Hon'ble Apex Court.

9. The Respondent No.3 filed an Application for rejection of suit under Order 7 Rule 11(d) of the CPC on the ground that the Appellant had filed the suit as an unregistered trust, who had applied for registration and that the suit is barred by Section 31

MPT Act, 1950. The learned Trial Court vide its order dated 16.07.2022 allowed the Application under Order 7 Rule 11(d) of the CPC of the Respondent No.3 and rejected the Special Civil Suit No.1010/2007 and drawn a decree accordingly. This order dated 16.07.2022 is under challenge in the present Appeal on the ground that learned Trial Court failed to consider the provision as enumerated under Section 31 of the MPT Act. The prohibition under Section 31 of the MPT Act is only to hear and decide the suit finally and not for filing the suit.

10. Learned Counsel for the Appellants contended that the suit can be kept pending till the time, the trust is registered or any proceedings in respect of registration of trust is pending for its adjudication, therefore, the Trial Court has erred in understanding the basic interpretation of Section 31 of the MPT Act. It is also contended that the learned Trial Court erred in observing that once the Hon'ble Apex Court has confirmed the dismissal of application for registration, there is no possibility of registration of Appellant's trust. However, the inquiry proceedings are still pending and yet to be decided by the Joint Charity Commissioner upon which the fate of the Appellant's registration of the Trust is

depending upon. It is further contended that the cancellation of registration of Trust cannot be said to have attained finality.

11. Learned Counsel for the Appellants relied on the following citations :

- (i) *Public Trust Shri Geeta Satsang Bhawan Vs. Nand Lal & Ors.*, reported in *(2018) 12 SCC 222*;
- (ii) *Mrs. Jankibai Prahlaorai Brijlal Seksaria Vs. Kashinath Raghunath Kelkar*, reported in *1972 Mh.L.J. 92*;
- (iii) *P. Prakash Bai Vs. Ashraf Alisha and Farad Ali Sha Trust Chennai*, reported in *AIRONLINE 2021 MAD 782* and
- (iv) *Vaishnav Sahayak Trust Vs. kailash Chandra*, reported in *AIR 2018 MP 160*.

12. As against this, the learned Senior Counsel Mr. S. P. Dharmadhikari for the Respondents submitted that the Methodist Episcopal Church in India is registered as a Public Trust. The disputed portion of property 9702 Sq. Mtr., out of the property 15276.80 Sq.Mtrs., was alienated with the permission of the Charity Commissioner. In fact, the property is reflected in Schedule-1 of Respondent Church since the year in 1966. On 04.12.2002, the Respondent No.2 Church was permitted to

alienate the 9702 Sq.Mtrs. of land from the suit property. There is no document creating a trust as contemplated under Section 2(13) of the MPT Act and in view of the basis of some resolution it does not create a trust. As property is under the name of Respondent No.2 Church in Schedule-1, there is no immovable property in possession of the Appellant trust. The entry of the property in Schedule-1 is of the year 1967 and since then, there was no challenge to the said entry. Even as per the permission granted by the Charity Commissioner, 9702 Sq. Mtrs. of land was sold and entry to that effect deleting the sold property in Schedule-1 is also executed long back in the year 2002. This change is not challenged by the Appellant in any point of time before any Forum. As such, there is no such immovable property belonging to the Appellant Church. The impugned order passed by the learned Trial Court is legal and there is no need to interfere in it.

13. Heard learned Counsel for the Appellants and learned Senior Counsel for the Respondents. Perused the impugned order and considered the Judgments relied on by both the parties.

14. By this Petition, the Appellants seek relief of quashing and setting aside the Judgment and order dated 16/07/2022, passed by the learned 17th Joint Civil Judge, Senior Division, Nagpur in Special Civil Suit No.1010/2007 (Methodist Episcopal and others Vs. Methodist Church and others) below Exhibit-303.

15. It is a matter of record that Special Civil Suit No.1010/2007 came to be filed by the present Appellants i.e. Trustees of the Methodist Episcopal Church. Methodist Church in India and others are defendants therein. In the said suit, written statement is duly filed by the defendants. There is an Application under Order 39 Rule 1 and 2 read with Section 151 of the CPC for grant of temporary injunction. Reply to the said application was filed by the defendants, in which, a preliminary objection is raised to the maintainability of the suit on the ground that the suit filed by the plaintiffs claiming to be the trustees of the Methodist Episcopal Church is not tenable in the eyes of law, as the same suffers from *suppressio veri and suggestion falsie* and also on account of failure to demonstrate their *locus standi*. The said trust is not registered under the Bombay Public Trust Act, 1950 (Now Maharashtra Public Trust Act, 1950). As the trust is not registered, the so called trustees have no *locus standi*, even assuming that the

plaintiff's Church is a public trust, still suit is not maintainable as no permission under Section 50(ii) read with Section 51 of the MPT Act, which requires prior permission of the Charity Commissioner to initiate the legal action. In the backdrop of this position, defendant Nos.1 to 3 also filed an application under Order 7 Rule 11(d) of the CPC. Plaintiffs are claiming that Church has established sometime in the year 1870 and they are trustees of the said trust. They have owners of building and land admeasuring 4 Acres bearing City Survey No.1677, Mouza Sitabuldi, Civil Line, Nagpur. The plaintiffs have submitted an application for registration of the Trust as well as for recording the suit property as the Trust property with Assistant Joint Charity Commissioner, Nagpur on 02.08.2007. The fact that the suit property is recorded on Schedule-1 of the Public Trust known as the "Executive Board of Methodist Church in India, Mumbai" with the Charity Commissioner, Mumbai, which is suppressed by the plaintiffs. In the application filed under Order 7 Rule 11(d) of the CPC, it is contended that the suit is barred by law. It is submission in the application that provisions of Sections 19, 20, 21 and 22 read with Section 79 of the MPT Act, it is abundantly clear that it is only the Deputy or Assistant Charity Commissioner or in appeal

Charity Commissioner who can decide whether the trust exists or not and whether the same is public trust and whether the properties held by it are trust properties. Thus, the jurisdiction of the Civil Court is barred by providing machinery under the MPT Act.

16. It is also matter of record that Miss Leelawati Dubey (since deceased) filed an application under Section 19 of the MPT Act for registration of Methodist Episcopal Church, Civil Lines, Nagpur as public trust in the office of Deputy Charity Commissioner on 02.08.2007, which was registered as Inquiry No.901/2007. It is stated in column No.4 of the said application that document creating trust is the rules and regulations, which was prepared on 01.05.2007 and in column No.8 of the application, corpus of the trust to be registered is mentioned and cash of Rs.11,000/- is shown as deposited in favour of applicant Miss Leelawati Dubey and immovable property described in Appendix-III. It is pertinent to note here that immovable property owned by the proposed trust shown as City Survey No.1677, situated at Mouza Sitabuldi (Civil Lines), Nagpur admeasuring 15276.80 sq.mtrs. acquired by the Sale-deed dated 13.03.1886. On the basis of facts supplied in the application, the Deputy

Charity Commissioner, Nagpur passed the order dated 08.07.2008 and allowed the application excluding the finding in respect of the title of the property described in Column No.7 of the application. The Trust was directed to be registered as per the findings recorded strictly. After perusing all the findings in respect of immovable property of the trust, the Deputy Charity Commissioner issued a Certificate of "E" as per Section 91 of the MPT Act. This order dated 08.07.2008, passed in the Inquiry No.901/2007 was challenged by Methodist Church in India by filing a Revision under Section 70A of the MPT Act before the Joint Charity Commissioner, Nagpur. The learned Joint Charity Commissioner, vide its order dated 04.10.2019, allowed the revision and order passed by the Deputy Charity Commissioner in Inquiry Application No.901/2007, dated 08.07.2008 is quashed and set aside. The Inquiry application at Exhibit-1 for registration of trust Methodist Episcopal Church, Civil Lines, Nagpur bearing PTR No.E-2154(N) as public trust stands dismissed and directed to take necessary entries in Schedule-1.

17. The plaintiff trust challenged the said order of the Joint Charity Commissioner, Nagpur dated 08.07.2008 before this Court vide Writ Petition No.7686/2019. This Court vide order

dated 29.10.2021, dismissed the writ petition of the plaintiffs' trust. The said dismissal of writ petition is challenged by the plaintiff trust before the Hon'ble Apex Court vide Special Leave Appeal (C) No. 21222/2021. The said judgment of this Court was confirmed by the Hon'ble Apex Court and dismissed the Special Leave Petition vide order dated 24.01.2022. Even review filed against the said order bearing Review Petition (C) No.301/2022 in Special Leave Petition (C) No.21222/2021 was also dismissed by order dated 22.03.2022. As such the order passed by the Joint Charity Commissioner, Nagpur in Revision Application No.6/2009 was confirmed up to the Hon'ble Apex Court and the registration of the said trust was refused/rejected.

18. After passing of judgment by Joint Charity Commissioner, rejecting the application for registration of the plaintiff's trust, the defendant No.3 has filed an application under Order 7 Rule 11(d) read with Section 151 of the CPC and specifically pleaded that suit is filed by unregistered trust, which is barred by Section 31 of the MPT Act. The reply to this application is filed by the plaintiff trust raising the same contentions. The learned 17th Joint Civil Judge, Senior Division, Nagpur, after hearing and due consideration of the facts and law

provisions, allowed the application Exhibit-303 filed by defendant No.3 under Order 7 Rule 11(d) read with Section 151 of the CPC and by passing order below Exhibit-1, the plaint is rejected under order 7 Rule 11(d) of the CPC as barred by Section 31 of the MPT Act. For the sake of convenience Section 31 of the MPT Act is reproduced below :

“31. Bar to hear or decide suits.

(1) No suit to enforce a right on behalf of a public trust which has not been registered under this Act shall be heard or decided in any court.

(2) The provisions of Sub-section (1) shall apply to a claim of set-off or other proceeding to enforce a right on behalf of such public trust.”

19. The plaintiffs have filed the suit for possession, declaration and cancellation of instrument and perpetual injunction. The suit is filed on behalf of the trust, however, it's registration was rejected by the Joint Charity Commissioner, which was confirmed up to the Hon'ble Apex Court. If the Section 31 of the MPT Act is perused, it makes it clear that no suit to enforce a right on behalf of a public trust which has not been registered under the MPT Act shall be heard and decided in any Court.

20. The learned Counsel for the Appellants submitted that filing of suit is not barred but only prohibition is to hear and decide the suit finally. The learned Counsel for the Appellants placed reliance on ***Public Trust Shri Geeta Satsang Bhawan*** (supra) in support of his contention. The said judgment arising out of judgment of High Court of Rajasthan. Section 29 of the Rajasthan Public Trust Act, 1959 is *pari materia* to the Section 31 of the MPT Act. The Hon'ble Apex Court in para 20 and 22 held as under :

“20. Section 29 creates a bar “for hearing and deciding a suit” filed by the public trust for enforcement of any of their rights, if the said trust is not registered under the Act. The bar, therefore, applies for “hearing and deciding” a suit and not in filing the suit. In other words, suit can be filed by the unregistered trust but such suit will neither be heard nor decided by the Court unless and until the trust is registered under the Act. Section 29 is, therefore, operates as stay of proceedings in the suit so long as the trust does not get itself registered under the Act.

22. As mentioned supra, since the appellant (plaintiff) Trust was registered under the Act on 7-2-2013, they acquired a right to prosecute the suit on merits against the respondents. The bar created under Section 29 then would no longer operate to the proceedings in the suit. In our opinion, the trial court was, therefore, wholly unjustified in proceeding to hear and decide the

suit on merits by passing a judgment/decreed. It failed to see the rigour of Section 29 which had taken away the jurisdiction of the trial court in hearing and deciding the suit”.

21. The learned Senior Counsel Mr. S. P. Dharmadhikari for the Respondents drew our attention to the fact that original suit for declaration was filed in the year 2007 and in the year 2019, the registration of plaintiff trust is cancelled by the Joint Charity Commissioner, Nagpur. On perusal of the Plaint, it will be clear that the public trust which has applied for registration just two months before filing of the suit pretending that it is a public trust. It is the plaintiffs own case that they are assembled on 01.05.2007 in the Methodist Episcopal Church and then filed an application to register the plaintiffs purported trust on 02.08.2007 and erroneously shown the property of defendant trust as their property. The registration of the trust after cancellation by the order of Joint Charity Commissioner in the year 2019, the plaintiff trust filed an application of registration afresh in the month of January 2024. In the said application, it is mentioned against the column of immovable property of the trust that there is no immovable property of the trust nor reference of the property, which is subject matter of the suit. As such, even if the application

for registration of the plaintiff trust is allowed, which is filed in the month of January 2024, there is no property of the trust mentioned for which the suit can be filed. Even perusal of the pleading in the suit, there are pleading that suit property is the property of the trust and filed suit for declaration that defendant trust is not having title and interest of the suit property much less to sale 9702.61 sq.mtr. of the land to the defendant Nos.4 to 9. Declaration is also sought for the sale-deed executed and registered in favour of defendant Nos.4 to 9 by defendant No.1 trust dated 21.01.2004 and 13.05.2004 are not binding upon the plaintiffs. The plaintiff trust also sought declaration that the Agreement dated 12.10.2004, executed between the defendant trust and the City of Nagpur Corporation, the layout plan and the sanctioned plan dated 04.03.2006 are illegal and invalid. The decree for possession of the suit property admeasuring 8367.348 sq.mtrs. along with Plot No.2-A admeasuring 749.357 sq.mtrs. and roads total admeasuring about 9702.61 sq.mtrs. On going through these prayers and pleadings in the suit, it is clear that the Appellant trust is claiming to be the owner of the suit property which is already recorded as property of defendant Trust long back in the year 1965. Without there being any declaration about

the ownership, the relief claimed in suit cannot be granted. In view thereof, it was incumbent on the trust to mention the suit property as property of the trust in the application for registration of the trust, filed in the month of January 2024.

In view thereof, the judgment passed in Public Trust Shri ***Geeta Satsang Bhawan*** (supra) would not be made applicable in peculiar set of facts in this matter. In the said matter, the plaintiff has obtained the necessary registration certificate in relation to the trust under the Act during the pendency of appeal before the Hon'ble Apex Court. Even after 2019, there is four years of delay in filing this application for registration. In the present matter, there was registration in favour of plaintiff trust, however, it was cancelled by the order of Joint Charity Commissioner, Nagpur and conformed up to the Hon'ble Apex Court, therefore, benefit given to the registered trust cannot be granted to the trust of which registration is cancelled.

22. The learned Counsel for the Appellants also relied on ***Mrs. Jankibai Prahlaorai Brijlal Seksaria*** (supra), wherein this Court held as under :

“No suit to enforce a right on behalf of a public trust which has not been registered under this

Act shall be heard or decided in any Court". The bar, therefore, is to the suit being heard and decided and not to the suit being instituted. In the present case so far as certain properties are concerned, they are not registered as properties belonging to the Trust and as soon as that defect is overcome, the bar under section 31(1) would no longer arise. It is to be hoped that after the plaintiff's approach the Charity authorities, they would deal with the matter as expeditiously as possible".

As discussed above, there is no property mentioned in the application for registration filed by the Appellant trust in the month of January 2024.

23. The learned Counsel for the Appellants also placed reliance on ***P. Prakash Bai*** (supra), however, facts involved in the said matter are totally distinguishable, wherein the trust is a surveyed and notified Wakf under purview of WaKf Act and same being under supervision and control of Wakf Board. Plaintiff claiming exemption from payment of court fee. The suit filed in name of Trust and not in name of individual. The Madras High Court held that in view of the pleadings the averments stated in plaint and cause title sufficient to grant exemption to plaintiff trust for payment of court fee. Whether the plaintiff trust is registered or not can be decided at the time of final hearing of

suit. Accordingly, the City Civil Court, Chennai was directed to frame issues regarding whether plaintiff Trust is a registered or not and decide the same. Thus, in the said matter which is averred that the Trust is under purview and control of Wakf Board. In the present matter, the registration of plaintiff trust was cancelled by the order of Joint Charity Commissioner and confirmed up to the Hon'ble Apex Court.

24. The learned Counsel for the Appellants also relied on ***Vaishnav Sahayak Trust*** (supra), in the said matter the dispute was about the name of trust which is registered public trust. As per the plaintiff the trust is registered as “Shri Vaishnav Sahayak Trust” but as per the defendants it is registered as “Shri Vaishnav Sahayak Trust Committee”. In view of this fact, the Madhya Pradesh High Court held that the suit for injunction is not tenable by unregistered public trust however, it is held that the said controversy can be resolved by way of evidence after framing the issue. The said issue can be decided as preliminary issue by virtue of Section 32 of the Act as it bars only proceeding and deciding suit finally but does not bar to decide preliminary issue or grant of relief of temporary injunction.

25. The learned Civil Judge, Senior Division, Nagpur considered all the orders passed in respect of the present trust and allowed the application on the ground that there is a bar of Section 31 of the MPT Act, as trust was unregistered. In addition to this finding, in our considered opinion, the fresh application for registration of the said trust is filed in the month of January 2024 and there is no mentioned of the suit property as the property of trust, in fact in the column No.7, the property of the trust, it is mentioned as 'Nil'. As such, even if the trust is registered, the suit is not maintainable, in view of the fact that there was no property of the proposed trust and suit is filed pretending that it is a public trust.

26. As such, we do not see any error or illegality in the order passed by the learned 17th Joint Civil Judge, Senior Division, Nagpur below Exhibit-303 and below Exhibit-1. In view of that, the First Appeal is liable to be dismissed. Hence, it is **dismissed**. No order as to costs.

(PRAVIN S. PATIL, J.)

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