



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

CIVIL REVISION APPLICATION NO.160 OF 2025

Kartik Liladhar Deshmukh .Vs. Maroti Deosthan (Barhanpur), Ajni through Power of Attorney Ashok S/o Vishwasrao Deshmukh and others

WITH

CIVIL REVISION APPLICATION NO.161 OF 2025

Gajanan Wamanrao Kombe and another .Vs. Maroti Deosthan (Barhanpur), Ajni through Power of Attorney Ashok S/o Vishwasrao Deshmukh and others

WITH

CIVIL REVISION APPLICATION NO.162 OF 2025

Pravin S/o Damodar Kale and others .Vs. Maroti Deosthan (Barhanpur), Ajni through Power of Attorney Ashok S/o Vishwasrao Deshmukh and others

WITH

CIVIL REVISION APPLICATION NO.163 OF 2025

Amol Motiram Kolhe and another .Vs. Maroti Deosthan (Barhanpur), Ajni through Power of Attorney Ashok S/o Vishwasrao Deshmukh and others

WITH

CIVIL REVISION APPLICATION NO.164 OF 2025

Arun Dadaji Bhambewar .Vs. Maroti Deosthan (Barhanpur), Ajni through Power of Attorney Ashok S/o Vishwasrao Deshmukh and others

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

Court's or Judge's Order

Mr. A.B. Tikle, Advocate for applicant(s).

CORAM : ROHIT W. JOSHI, J.

DATE : 23/12/2025

1. An application for rejection of plaint was filed by the present applicants who are defendants in Regular Civil Suit Nos.89 of 2025, 90 of 2025, 93 of 2025, 94 of 2025 and 91 of 2025. The suits are filed by a registered public trust through its sole trustee and some other individuals. The suits are filed seeking the following reliefs.

“(A) Civil Suit No.89 of 2025:

- 1. Pass decree of declaration that the defendant No. 1 have no right to obstruct the auction process of plaintiff No. 1- trust in respect of the suit field and have no possessory right over the suit field.*
- 2. Pass decree of permanent injunction restraining the defendant No. 1 from creating obstruction in the process of auction of plaintiff no.1-trust for annual cultivation of suit field with yearly rent and from creating disturbance to the possession of the plaintiff No. 1- trust and possession of proposed highest bidder over the suit field through themselves or through anybody.*
- 3. Grant any other relief that may be deemed fit and proper under the circumstances of the case.*
- 4. Saddle cost of the proceeding on the defendants.*

(B) Civil Suit No.90 of 2025:

- 1. Pass decree of declaration that the defendants No. 1 & 2 have no right to obstruct the auction process of plaintiff No. 1- trust in respect of the suit field and have no possessory right over the suit field.*
- 2. Pass decree of permanent injunction restraining the defendants No. 1 & 2 from creating obstruction in the process of auction of plaintiff no.1-trust for annual cultivation of suit field with yearly rent and from creating disturbance to the possession of the plaintiff No. 1- trust and possession of proposed highest bidder over the suit field through themselves or through anybody.*
- 3. Grant any other relief that may be deemed fit and proper under the circumstances of the case.*
- 4. Saddle cost of the proceeding on the defendants.*

(C) Civil Suit No.93 of 2025:

- 1. Pass decree of declaration that the defendants No. 1 to 3 have no right to obstruct the auction process of plaintiff No. 1- trust in respect of the suit field and have no possessory right over the suit field.*
- 2. Pass decree of permanent injunction restraining the defendants No. 1 to 3 from creating obstruction in the process of auction of plaintiff no.1-trust for annual cultivation of suit field with yearly rent and from creating disturbance to the possession of the plaintiff*

No. 1- trust and possession of proposed highest bidder over the suit field through themselves or through anybody.

3. Grant any other relief that may be deemed fit and proper under the circumstances of the case.

4. Saddle cost of the proceeding on the defendants.

(D) Civil Suit No.94 of 2025:

1. Pass decree of declaration that the defendants No. 1 to3 have no right to obstruct the auction process of plaintiff No. 1- trust in respect of the suit field and have no possessory right over the suit field.

2. Pass decree of permanent injunction restraining the defendants No. 1 to 3 from creating obstruction in the process of auction of plaintiff no.1-trust for annual cultivation of suit field with yearly rent and from creating disturbance to the possession of the plaintiff No. 1- trust and possession of proposed highest bidder over the suit field through themselves or through anybody.

3. Grant any other relief that may be deemed fit and proper under the circumstances of the case.

4. Saddle cost of the proceeding on the defendants.

(E) Civil Suit No.91 of 2025:

1. Pass decree of declaration that the defendants No. 1 and 2 have no right to obstruct the auction process of plaintiff No. 1- trust in respect of the suit field and have no possessory right over the suit field.

2. Pass decree of permanent injunction restraining the defendants No. 1 and 2 from creating obstruction in the process of auction of plaintiff no.1-trust for annual cultivation of suit field with yearly rent and from creating disturbance to the possession of the plaintiff No. 1- trust and possession of proposed highest bidder over the suit field through themselves or through anybody.

3. Grant any other relief that may be deemed fit and proper under the circumstances of the case.

4. Saddle cost of the proceeding on the defendants.”

2. Perusal of the prayer clauses in the plaint will indicate that the reliefs sought are of a civil nature with respect to the property belonging to the public trust, who is

plaintiff No.1 in the said suits. The contention of the learned Advocate for the applicants/original defendants is that the suits are filed without seeking permission of the Charity Commissioner, as contemplated under Section 50 of the Maharashtra Public Trusts Act, 1950, and therefore, the same are not maintainable. Reliance is placed on the judgments of this Court in the cases of *Subhash Trimbakrao Inamdar and others ..vs.. Pandurang Tansingh Savner and other*¹, and *Shivaji Shikshan Sanstha, Amravati ..vs.. Rajiv S/o Martandrao Dalal and others*².

3. The provisions of Section 50 are attracted only when a person having interest in a trust intends to file a suit of the nature provided under Section 50 of the Maharashtra Public Trusts Act, 1950. Permission under Section 50 is not required when the trust itself files a suit for enforcement of its civil rights. The legal position in this regard is settled by *catena* of decisions of this Court. It will be appropriate to refer to one such recent decision in the matter of *Hari Ashram ..vs.. Vijay Jayantilal Patel*³. The learned trial Court has not committed any jurisdictional error in rejecting the application for rejection of plaint. Civil Revision Applications deserves to be rejected and are **rejected** accordingly.

4. The Apprehension that findings recorded by the learned trial Court in Paragraph Nos.12 and 13 of the

1 2003 (3) Mh.L.J. 131

2 2020(1) Mh.L.J. 345

3 2025 SCC OnLine Bom 3627

impugned order will operate as *res judicata* in the proceedings under Section 50 pending before the learned Deputy Charity Commissioner for framing a scheme is clearly misconceived since scope of both the proceedings is different and the impugned order is passed under Order 7 Rule 11 of the Code of Civil Procedure, 1908, wherein the defence of the defendants can never be taken into consideration and the application is required to be decided taking the plaint averments on their face value.

(ROHIT W. JOSHI, J.)

C.L. Dhakate