IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

973 FIRST APPEAL NO. 768 OF 2022
IN CA/7273/2016

SHRI 1008 NEMINATH BHAGWAN DIGAMBAR JAIN THRO. PRESIDENT- MANIKCHAND SURAJMAL BINAYAKE AND OTHERS
VERSUS
PAWAN VIJAYKUMAR AMBHURE AND OTHERS
...
Mr. P. F. Patni, Advocate for Appellants
Mr. G. L. Deshpande, Advocate for Respondent Nos.1 to 3 and 7

WITH
CIVIL APPLICATION NO. 5355 OF 2026
IN FA/768/2022
WITH
CIVIL APPLICATION NO. 7274 OF 2016
IN FA/768/2022
WITH
CIVIL APPLICATION NO. 577 OF 2017
IN FA/768/2022
WITH
CIVIL APPLICATION NO. 13934 OF 2022
IN FA/768/2022
...

CORAM : AJIT B. KADETHANKAR, J.
DATED : 30th October 2026

P.C. :-

. This matter is listed in the category of final hearing. When the matter is called out, Mr. P. F. Patni, learned Advocate for the appellants and Mr. G. L. Deshpande, learned

Advocate for the respondents are present. Mr. Deshpande submits that he represents stakeholders/respondents in the first appeal.

2. The dispute is between two sects of the Digambar Panthiya Jain community. Suffice to note there are three sects in the Digambar Panthiya Jain community namely (A) the Khandelwal Digambar Jain sect, (B) the Saitwal Digambar Jain sect, and (C) the Bhagyarwar Digambar Jain sect. The controversy in the present matter is between Sect A and Sect B, i.e. the Khandelwal Digambar Jain sect and the Saitwal Digambar Jain sect.

3. The subject-matter trust is registered in the office of the Charity Commissioner, Parbhani in the name of Shri. 1008 Shri Neminath Bhagwan Digambar Jain, Atishay Kshetra, Jainendra Nawagad, (Ukhlad) Tq. and Dist. Parbhani bearing Registration No.A-202.

4. Considering the controversy involved in the first appeal as also the arguments advanced by the parties during the course of the hearing, it has become convenient to dispose of the first appeal in the light of the following facts and submissions.

5. Application bearing Inquiry No.101 of 2011 was filed before the learned Assistant Charity Commissioner, Parbhani for framing a scheme for the trust. A draft scheme was proposed by the applicants. After hearing the parties, the learned Assistant Charity Commissioner, Parbhani passed a judgment and order dated 02.07.2013 allowing the said application and framing a scheme as set out in Annexure A to the judgment. Obviously, the said order was passed under Section 50A(i) of the Bombay Public Trusts Act, 1950.

6. The judgment and order passed by the learned Assistant Charity Commissioner was challenged by respondent Nos.1 to 3 herein by filing Trust Appeal No.1 of 2013 thereby challenging certain components of the scheme. The present appellants were parties to the said proceedings as respondents.

7. After hearing the parties, the learned District Judge-1 Parbhani by judgment and order dated 09.04.2015 was pleased to partly allow the appeal and remand the matter to the learned Assistant Charity Commissioner for settlement of the scheme. The operative part of the judgment and order dated 09.04.2015 reads thus :

> *"1- Petition is hereby partly allowed.*
> *2- The matter be remanded to Assistant Charity Commissioner, Parbhani to re-settle the scheme which is settled by him prescribing qualification, disqualification of members of the trust, giving right to become member if any person fulfills the qualification and does not become disqualify and clause 9(2) of the scheme should be amended in order to remove the ambiguity."*
> *2- Inform the Assistant Charity Commissioner, Parbhani accordingly."*

8. Feeling dissatisfied with the order of remand passed by the learned District Judge, the respondents before the District Court approached this Court by filing the present first appeal.

9. During the pendency of this first appeal, it appears that the stakeholders belonging to both Sects A and B attempted to resolve the controversy by conducting a meeting comprising the community members and also including present learned advocates with a proposal for settlement of the scheme. The proposal contemplated that the number of trustees would be distributed in equal proportion between the two sects with one trustee from the Bhagyarwar Digambar Jain sect.

10. The Court is apprised that the parties arrived at a consensus that the number of trustees of the trust would be 15 instead of the arrangement mentioned in the draft scheme.

Suffice to note, in the draft scheme, it was mentioned that the number of trustees would be a minimum of seven and a maximum of 15.

11. It is further submitted that a request would be made to the learned Assistant Charity Commissioner with a modified scheme wherein the total number of trustees i.e. 15 would comprise seven members from the Khandelwal Digambar Jain sect, seven members from the Saitwal Digambar Jain sect, and one member from the Bhagyarwar Digambar Jain sect.

12. Mr. Patni and Mr. Deshpande, learned Advocates for the respective parties, on instructions submit that the main controversy was with regard to the number of trustees. They submit that in a religious meeting conducted by the followers of the Digambar Jain Panthiya, it was resolved to settle the controversy and approach the competent authority with a fresh scheme so as to maintain a balance of ideologies in the trust. The trustees were therefore proposed to be divided in equal proportion between the two sects with representation from the Bhagyarwar Digambar Jain sect.

13. Suffice to note, Mr. Patni as also Mr. Deshpande learned Advocates for the respective parties submit that the draft

scheme also proposed 15 trustees. However, there was no division of the trustees in the manner now proposed.

14. Hence, to eradicate the possibility of further controversy in the trust as also to ensure its smooth functioning, it has been amicably decided that the number of trustees would be distributed in the equal proportion as observed above.

15. The parties candidly agree that they would approach the learned Assistant Charity Commissioner by following the appropriate procedure either for modification of the earlier scheme or for submission of a modified draft scheme in the light of the observations made above.

16. Suffice to note, Mr. Deshpande learned Advocate for the respondents in the present appeal submits on instructions that while proposing the modified scheme, the parties would incorporate the arrangement reflected in Resolution No.6 dated 25.02.2022. Obviously, the said resolution is signed by all the stakeholder members belonging to both the sects.

17. In view of the settlement arrived at between the parties, as recorded above, I deem it appropriate to dispose of the first appeal by granting liberty to the appellants to submit a fresh scheme before the learned Assistant Charity Commissioner

under Section 50(A) of the Bombay Public Trusts Act, 1950.

18. The draft scheme to be submitted by the appellants shall provide for a total of 15 trustees comprising seven trustees from the Khandelwal Digambar Jain sect, seven trustees from the Saitwal Digambar Jain sect, and one trustee from the Bhagyarwar Digambar Jain sect. The further arrangement regarding the office-bearers shall be in accordance with Resolution No. 6 dated 25.02.2022.

19. The respondents have agreed that they shall not object to the draft scheme that the appellants would submit in the light of this order. Suffice to note, Resolution No.6 dated 25.02.2022 is annexed to Civil Application No.13934 of 2022.

20. To remove any confusion or possibility of further controversy, the parties agree that the existing trustees shall continue to function as trustees until the new trustees are elected in accordance with the modified scheme. Further arrangements shall be governed by the scheme that would be approved by the learned Assistant Charity Commissioner.

21. The appellants undertake to submit the scheme before the office of the learned Assistant Charity Commissioner within a period of two months from today.

22. Mr. Deshpande, learned Advocate for the respondents submits that no separate notice to the respondents would be necessary in such proceedings.

23. In view of the above, the committee of trustees authorised by this order to continue functioning shall not take any policy decision until the new trustees came into power in accordance with the approved scheme.

24. Accordingly, First Appeal stands disposed of in the above terms. The judgment and order passed by the District Court stands modified accordingly. Pending civil applications also stand disposed of.

25. This Court appreciates the assistance and contribution of Mr. P. F. Patni and Mr. G. L. Deshpande, learned Advocates for the respective parties in resolving the controversy amicably.

(AJIT B. KADETHANKAR, J.)

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