

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3909 OF 2026

Saunak s/o Prakash Narayan Tiwari

..Petitioner

Versus

Dinesh Tiwari & Ors.

...Respondents

AND

WRIT PETITION NO. 3910 OF 2026

Mr. Rahul S Kadam a/w Mr. Vedant Babar, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED : 30th MARCH 2026

ORDER :

1. Heard the learned Counsel for the petitioner.
2. These petitions under Article 227 of the Constitution of India call in question the legality, propriety and correctness of the orders passed by the learned Assistant Charity Commissioner dated 15th December, 2025, whereby the applications preferred by the petitioner under Section 73A of the Maharashtra Public Trust Act, 1950 ("the MPT Act") to implead him as a party in the Change Reports No. 3415/2024, 467/2024 and 468/2024 in respect of Bhakti Foundation – the trust registered under the MPT Act, came to be rejected.
3. Under a deed of Indenture dated 15th November, 1987 Vishnupriya @ Sushila Watumull settled the trust, "Bhakti

Foundation”. The above numbered Change Reports came to be filed reporting the change in the board of trustees on account of resignation and death, etc., of the trustees.

4. The petitioner sought to intervene in those Change Reports asserting *inter alia* that, late Shiv Mohan Tripathi @ Mahant Haribol Baba was the trustee of the Trust. He was solely handling the affairs of the Trust. Late Shiv Mohan Tripathi was the grandfather of the petitioner. He was suffering from severe illness and passed away on 21st November, 2024. However, during his lifetime, late Shiv Mohan Tripathi had appointed the petitioner to manage the affairs of the Trust and pursue the legal proceedings to which the Trust was a party. The petitioner has been managing the affairs of the Trust. Thus, being a beneficiary and interested person, the petitioner was entitled to be impleaded the party to the Change Reports which were allegedly filed on the basis of the false documents with a view to cause wrongful loss and harm to the Trust.

5. The reporting Trustee resisted the application for intervention.

6. By the impugned order, the learned Assistant Charity Commissioner was persuaded to reject the application for

intervention observing that, the petitioner failed to demonstrate that he was a beneficiary of the Trust.

7. Mr. Rahul Kadam, the learned Counsel for the petitioner, strenuously submitted that, the material on record indicates that, the petitioner has been managing the affairs of the Trust since prior to the demise of Late Shiv Mohan Tripathi. The petitioner was thus a person having interest within the meaning of Section 2(10) of the MPT Act. Thus, the learned Assistant Charity Commissioner committed a gross error in rejecting the applications.

8. At the outset, it is necessary to note that, the settler under the Indenture of the Trust had appointed the trustees. Under the said Indenture of Trust, the existing or continuing trustees were empowered to appoint new trustees in the event of occurrence of vacancy in the office of the Trustee(s). Thus, the Indenture of the Trust provided a definite mode of succession. In the aforesaid backdrop, the claim of the petitioner deserves to be appreciated.

9. The petitioner claims that, Late Shiv Mohan Tripathi, his grandfather, was the sole trustee. That claim is belied by the provisions in the Indenture of the Trust and the material on record. Prima facie, it appears the Trust was governed by a

board of trustees and the Change Reports were filed reporting the change that had occurred on account the death and resignation of the trustees.

10. Secondly, the petitioner claimed that, during his lifetime Late Shiv Mohan Tripathi had appointed the petitioner to manage the affairs of the Trust and to represent the Trust in the legal proceedings. Reliance was placed by Mr. Kadam on an authorisation letter purportedly issued by Shiv Mohan Tripathi on 27th October, 2023.

11. I am afraid, the aforesaid claim of the petitioner merits any consideration. Firstly, indenture of the Trust, as noted above, envisages a body of trustees and provides a mode of succession to the office of trustee(s). Secondly, it is a fundamental principle of law that, all the trustees are bound to exercise their judgment and act jointly in the said exercise. Generally, as a matter of principle, a trustee is not entitled to delegate his powers and duties because the office of trustee is an office of confidence. A trustee can not delegate his office or any of his duties either to a co-trustee or to a stranger, unless the conditions stipulated in Section 47 of the Indian Trust Act, 1982 ("the Act, 1982) are satisfied. Section 48 of the Act, 1982 declares that, where there

are more trustees than one, all must join in the execution of the Trust, except where the instrument of Trust otherwise provides.

12. In the aforesaid view of the matter, the very foundation of the application for intervention that one of the erstwhile trustees, during his lifetime, had authorized the petitioner to manage the affairs of the Trust and represent the Trust in the legal proceedings appears to be unsustainable. The alleged acts performed by the petitioner in pursuance of the alleged letter of authorization by one of the trustees thus do not render the petitioner a person having interest in the affairs of the Trust. In a sense, the stand of the petitioner is contrary to the stipulations in the Indenture of the Trust as the petitioner claimed that, Late Shiv Mohan Tripathi, his grandfather, was the sole trustee of the Trust. This being the nature of the claim of the petitioner, the learned Assistant Charity Commissioner has not committed any error in rejecting the application for intervention.

13. Mr. Kadam would urge that, the petitioner has been in the management of the affairs of the Trust and the intervention was sought to protect the Trust and its property from the persons who have falsely reported the change. Suffice to clarify that, the

petitioner may work out his remedies before the appropriate forum by filing appropriate proceedings.

14. Resultantly, the petitions deserve to be dismissed.

15. Hence, the Writ Petitions stand dismissed.

[N. J. JAMADAR, J.]