



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

WRIT PETITION NO. 1181 OF 2024

Shri Dongarsidas s/o Laxminarayanji Saraf,
Aged about 79 yrs, Occ. Social Work,
R/o Durga Colony, Tumsar,
Tah Tumsar, Dist. Bhandara

....PETITIONER

...V E R S U S...

1. Shri Manikchand Dulichand Bhure,
aged about 86 yrs, occ. Agriculturist,
R/o Vinoba Ngar, Tumsar,
Tah Tumsar, Dist. Bhandara

2. The Assistant Charity Commissioner,
Bhandara, Dist. Bhandara

...RESPONDENTS

Mr. A.P. Thakare, Advocate for petitioner.
Mr. A.M. Chandekar, Advocate for respondent No.1.
Mr. S.B. Bissa, AGP for respondent No.2.

CORAM:- M.W. CHANDWANI, J.

DATE :- 20.01.2026

ORAL JUDGMENT:

Heard the learned counsels for the respective parties.

2. The impugned order dated 7.10.2019, passed by the learned District Judge, Bhandara, in MJC No. 81/2015, thereby setting aside the order dated 16.10.2014, passed by the respondent No. 2 - learned Assistant Charity Commissioner, Bhandara and directing to afford an opportunity to respondent No.1 to adduce

evidence and pass an appropriate order is under challenge in this petition.

3. The petitioner filed scheme before the Assistant Charity Commissioner under Section 50-A of the Maharashtra Public Trusts Act, 1950, wherein respondent No. 1, whose grandfather had donated the land to the trust, had filed application for intervention before the Assistant Charity Commissioner. The said application came to be allowed. Evidence was adduced, however, since respondent No. 1 could not remain present on one or two occasions for cross examination, his evidence was discarded and the scheme came to be allowed. The learned District Judge, in the appeal filed by respondent No. 1, passed the impugned order setting aside the order passed by the respondent No. 2 – Assistant Charity Commissioner which is under challenge.

4. The main contention of the petitioner is that the learned District Judge has to either allow the appeal or dismiss the same but he cannot remand the matter back.

To buttress his contention, he has relied upon the decision of the learned Coordinate Bench of this Court, in the case of ***Vasantrao s/o Vishwanathrao Mane and Others Vs. Apparao s/o***

Baibanna Sidore and Others, reported in *2008(2) BomCR 662*, wherein it has been observed that the District Judge cannot remand the matter.

5. This controversy has been put to rest by the Full Bench of this Court in the case of *Prabhakar Sambhu Chaudhary Vs. Laxman Baban Mali and Others*, reported in *2016(3) Mh.L.J. 202*, wherein it has been held that the District Court has power to remand the matter. Therefore, no substance is found in the submission of the learned counsel for petitioner.

6. The learned counsel for the petitioner has submitted that respondent is a trustee of the trust and therefore, cannot participate in the proceedings. Let me state here that the factum of donation of two acres of land by the grandfather of respondent No. 1 is not disputed. The order allowing respondent No. 1 to intervene in the matter by the Assistant Charity Commissioner has not been challenged.

7. Be that as it may, the fact remains that in wake of the donation made by the grandfather of respondent No. 1, prima facie it appears that respondent No. 1 has interest in the trust and therefore, I do

not find force in the argument of the learned counsel for the petitioner that respondent No. 1 cannot participate in the proceedings.

8. The learned District Judge found that an opportunity to lead evidence has not been given to respondent No. 1. The order of respondent No. 2 - Assistant Charity Commissioner shows that the order discarding the evidence came to be passed hastily within a short span of time and therefore, I do not find any perversity in the order passed by the learned District Judge.

9. The petition has no merit and hence it stands dismissed.

10. Needless to mention that all contentions are kept open for the parties including subsequent developments in the trust. Petition is disposed of.

(M.W. CHANDWANI, J.)

Belkhede PS