



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

SECOND APPEAL NO. 117 OF 2026

1) Vasantao s/o Shankarrao Jadhao
Age : 64 years, Occ : Service
2) Sau. Jamnabai w/o Vasantao Jadhao
Age : 61 years, Occ : Household
Both R/o. Ganpati Mandir Premises,
Narsingpura, Akot, Dist. Akola

-- Appellants

versus

Shri Gajanan Swami Deosthan Akot,
Through its Trustee,
Shri Narandraprasad Mohanlal Shrivastav,
Age : 78 years, Occ : Retired Teacher,
R/o : Gopal Nagar, Paratwada,
Tq : Achalpur, Dist. Akola

-- Respondents

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders or the directions,
and Registrar's orders.*

Court's or Judge's order

Mr. P. J. Mehta, Advocate for appellants.

CORAM : ROHIT W. JOSHI, J.
DATED : APRIL 01, 2026

1) The present appeal is filed in order to challenge judgment and decree dated 02/05/2025, passed by the learned District Judge-2, Akot in R.C.A.No.28/2016, whereby the learned first appellate Court has reversed the judgment and decree dated 02/05/2016, passed by the learned 2nd Joint Civil Judge Junior Division, Akot in R.C.S.No.69/2012. The appellants are original defendants. The respondent is original plaintiff.

2) The plaintiff is a public trust registered under the Maharashtra Public Trusts Act, 1950. The suit was filed by the plaintiff through one of its trustees, Mr.Narendraprasad Mohanlal Shrivastav. The suit was filed seeking reliefs of permanent injunction restraining the defendants/tenants from

making construction over the suit property and mandatory injunction for demolishing the construction which was already made by them.

- 3) The learned trial Court dismissed the suit on the ground of maintainability holding that Mr.Narendraprasad Shrivastav was not trustee of the plaintiff trust when the suit was instituted and also on the ground that permission under Section 50 of the Maharashtra Public Trusts Act, 1950 was not obtained.
- 4) Being aggrieved by the dismissal of the suit, the plaintiff preferred aforesaid appeal. The learned first appellate Court has held that when a public trust itself files a suit for enforcement of its civil rights, Section 50 of the M.P.T. Act is not attracted. As regards status of Mr.Narendraprasad, it is found that change report with respect to election of Mr.Narendraprasad Shrivastav as a trustee was allowed after filing of the suit in the year 2015. The learned first appellate Court has held that the plaintiff had proved that Mr.Narendraprasad was a trustee of the plaintiff trust in view of the order passed by the Deputy Charity Commissioner accepting the change report with respect to election of Mr.Narendraprasad Shrivastav as trustee in the year 2009.
- 5) It is well settled that an order passed accepting the change report does not confer status of trustee on a person elected as a trustee. The said order merely recognises an existing fact. An order accepting change report with respect to election or appointment of any person as a trustee is recognition of the fact which has already taken place.
- 6) In view of the aforesaid, in the considered opinion of this Court, the learned first appellate Court has rightly held that

the order accepting change report does not confer status of trustee on Mr.Narendraprasad, but merely recognises that Mr.Narendraprasad was elected as a trustee in the year 2009. It must also be stated that an order accepting change report implies that the change had occurred as a matter of fact and that the change was a legal and valid change.

7) The contention of learned counsel Mr.Mehta, challenging the findings recorded by the learned first appellate Court with respect to maintainability of the suit on the ground that Mr.Narendraprasad was not a trustee when the suit was instituted, therefore, cannot be accepted and is liable to be rejected.

8) As regards the second contention with respect to Section 50 of the M.P.T. Act, perusal of the provision will indicate that permission under the said provision is required only when two or more interested persons intend to institute a suit with respect to public trust for reliefs enumerated in the said Section. The said Section is not attracted when the public trust itself institutes a suit for protecting its civil rights. The learned first appellate Court has rightly summarised the legal position with respect to interpretation of Section 50. These are the only two ground that Mr.Mehta pressed into service in order to assail the judgment and decree passed by the learned first appellate Court.

9) For the reasons recorded above, the contentions canvassed do not give rise to any substantial question of law, second appeal is therefore dismissed with no order as to costs.

(ROHIT W. JOSHI, J.)