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Presented on : 13/10/2015
Registered on : 17/10/2015
Decided on : 08/05/2026
Duration : 10 Y, 06 M, 21 D.

IN THE COURT OF DISTRICT JUDGE -1, WASHIM.
(Presided over by J. P. Zapate)

Civil M. J. C. No.51/2015

Exh.25

[CNR No.MHWS010011432015]

1. Kamlakar Balaji Murlidhar
Aged about - 56 years Occu. Pujari,
2. Vinod Kamlakar Murlidhar
Aged about - 30 years Occu. Pujapath,
3. Pramod Kamlakar Murlidhar
Aged about - 25 years Occu. Education,
All R/o Durgadevi Chowk, Murlidhar Mandir
Tq.Risod, Dist. Washim.

... Appellants

VERSUS

1. Digambar Balaji Murlidhar
Aged about - 70 years Occu. Nil,
2. Laxmikant Balaji Murlidhar
Aged about 40 years, Occu. Labour
Both R/o Juna Balaji Mandir, Washim
Tq. Dist. Washim.
3. Smt. Hema Anantrao Shastri
Aged about 35 years, Occu. Private Service
R/o Mahsul Colony, Akola.
Tq. Dist. Washim

... Respondents

**APPLICATION U/SEC. 72 OF THE MAHARASHTRA PUBLIC TRUST
ACT, 1950**

Advocate Shri. P. K. Sawarkar for appellants
Advocate Shri. S. K. Dhangar for Respondents

JUDGMENT

(Delivered on 08th day of May, 2026)

This is an application preferred under Section 72 of the Maharashtra Public Trust Act, 1950 (*hereinafter referred for the sake of brevity as 'MPT Act' for short*) challenging the judgment and order passed by Id. Assistant Charity Commissioner, Washim Region, Washim on 28/09/2015 in inquiry No.1012/2012 whereby Id. trial Court while framing scheme declared that Kamlakar Balaji Murlidhar as a first board trustee and kept vacant 2 to 7 trustees and directed to Inspector to hold inquiry to find out proper trustee.

Brief facts giving rise to the present application are as under :-

2] The said trust being religious has been registered with this office. It has one trustee since beginning and now he become old aged person. The applicants submits that they are legal heirs and regular devotee of the said Sansthan and used to participate in daily activity of the trusts. The trust has not rules and regulations since inception, where as trustee discharging his obligation properly. However, for want of rules and regulations for proper administration of the trusts and its welfare, scheme need to frame. The applicants by giving details or particulars of the trusts such as, its name registration number, its object and name of trustee i.e. Digambar Balaji Murlidhar also pointed out that now trust having movable property worth of Rs.20,000/- and immovable property worth of Rs.50,00,000/-. The applicants submits that, trust at present having annual income of Rs.25,000/- and prayed for framing scheme. The application filed along-with draft of proposed scheme.

3] In view of order dtd. 03/12/2012 passed below application Exh.3 which was filed on behalf of applicants, non-applicant No.2 is joined as party. Whereas non-applicant No.3 has permitted to join as party being interested with trust under Section 73A of the Act in terms of order dtd.19/10/2013 passed below her application Exh.17.

4] Record of the case shows that one Neha Murlidhar Laxamikant (daughter of non-applicant No.1) was appeared through her mother being natural guardian by Vakalatnama vide Exh.10, but she failed to take further any suitable steps. Further more, non-applicant Nos.1 and 2 are appeared on 27/02/2013 vide Vakalatnama at Exh.8, but in spite of reasonable opportunity, they failed to file say/objection, therefore, the case proceed without say against them in terms of order dtd.30/05/2013 below Exh.1.

5] Non-applicant No.3 by filing say at Exh.24 raised objection for framing scheme with stating that, applicant No.1 and his two sons filed present application on the basis of false and frivolous grounds. As per mode of succession in trusteeship and managership, elder son of recorded trustee/manager acquired trusteeship by inheritance. Prior to this said Digambar Balaji Murlidhar was trustee/manager of the trusts. The applicants are not legal heirs of the said Digambar and therefore, they cannot be inducted as trustee by inheritance. If the competent authority decide, the said Digambar is not fit for trusteeship, then his elder son or his daughters ought to have inducted as trustees as per mode of succession of the trusts. This non-applicant denied the applicants are used to participate in day to day process of worship. The applicant have not concerned with the trusts. According to his non-applicant name of said Diagambar is today also recorded being trustee of the said trusts. The contentions made in draft scheme annexure with application Exh.1 in

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respect of holding property by said trusts, are vague in nature and particulars in respect of total proposed trustees are contradictory with each others. Particulars in respect of fill up vacancy of trustee given in drafts scheme are against the provisions of Law for want of post designated as Regional Assistant Charity Commissioner and even said authority is no empowered to fill up vacancy. This non-applicant also submits that, other particulars given in drafts scheme are self contradictory and against the provisions of Law. She has emotional attachment, love and affection being regular devotee since her childhood with the said trust. Accordingly non-applicant No.3 claimed that she being elder daughter of said Digambar has right to induct as a trustee by mode of succession, she prayed that the application may be rejected with costs.

6] In support of claim, applicant Kamlakar Balaji Murlidhar examined himself at Exh.12 and Exh.25. Whereas non-applicant No.3 examined herself at Exh.41 and thereby asserted almost similar facts which are stated in her objection/say at Exh.24. On behalf of applicant certified copies of judgment in application No.05/2009 and 29/2012 delivered by the Hon'ble Joint Charity Commissioner, Amravati on dtd.02/11/2012 and 29/01/2013 respectively placed on record. Whereas xerox copies of Judgment in inquiry No.443/2009 delivered by this authority on 09/09/2011, order of the Hon'ble High Court in W. P. No.6806/2013 and W. P. No.3255/2010 passed on 30/06/2014 and 17/08/2015 respectively placed on record by the applicant as well. The ld. trial Court framed two points and by giving affirmative answers/findings framing scheme.

7] Being aggrieved with the above judgment and order the present application came to be preferred on the grounds mentioned in the application.

8] It is argued by ld. advocate Shri. P K. Sawarkar for appellants that to frame scheme are powers of Assistant Charity Commissioner or Deputy Charity Commissioner. Powers under Section 50-S MPT Act cannot be delegated to Inspector to that office. Inspector cannot appoint trustee, because for appointment of trustee is made for under Section 47 of the said Act is provided. Despite the fact the ld. trial Court delegated its powers to the Inspector. Hence, they are challenging the order with submissions that the order be modified to that effect and ld. Assistant Charity Commissioner be directed to bring scheme as per the provisions of Act.

9] Per contra, it is argued by ld. advocate Shri. S. K. Dhangar for respondent that powers delegated by ld. Assistant Charity Commissioner are correct, legal and proper. The Inspector may appoint trustee as per rules and thereafter, they are supporting the judgment.

10] Having heard the parties and perused the record and proceedings, following points arise for my consideration, together with my findings thereon, for the reasons recorded below :-

Sr. No.	Issues	Findings
1	Whether the order passed by Ld. Assistant Charity Commissioner is legal and proper ?	In the negative
2	Whether interference is required ?	In the affirmative
3	What order ?	As per final order.

REASONS

As to point No.1 to All :

11] Section 50-A of MPT Act is an agenda to Section 50 of MPT

Act. As per Section 50-A of MPT Act are that Dy. Charity Commissioner has excessive powers to frame scheme of declaration first board trustee. Before doing it, he was given opportunity of hearing to each party. If under the scheme, he has to appoint trustee, then he has to give public notice, here the proposed trustee and then appoint them. Here that procedure is not followed, but after framing scheme the ld. Assistant Charity Commissioner have passed following order :-

Order

“(1) An application Exhibit 1 partly allowed.

(2) I hereby settled a scheme for “Shri Murlidhar Maharaj Sansthan, Washim, Tq. and Dist. Washim bearing registration No.A-1141 (Akola)” for its proper administration and management as per Annexure ‘A’ which shall form part and parcel of this judgment.

(3) Henceforth an affairs of the trust shall be strictly governed in accordance with the settled scheme.

(4) The first board of trustees after the scheme shall be as follow:-

(1) Kamlakar Balaji Murlidar.

(2) Kept vacant till report of Inspector

(3) Kept vacant till report of Inspector

(4) Kept vacant till report of Inspector

(5) Kept vacant till report of Inspector

(6) Kept vacant till report of Inspector

(7) Kept vacant till report of Inspector

(5) The Inspector of this office shall conduct inquiry for find out proper trustees proposed to appoint in vacant post as per observations made in this judgment and shall submit report within two months or further extended time from today.

(6) An entry be accordingly taken in Schedule-I.”

of following scheme as contemplated under Section 50-A coupled with Section 47 of MPT Act principle behind it have directed the Inspector to conduct inquiry to find out proper trustee proposed to be appointed in vacant post. As per Section 68 of this Act to frame scheme under Section 50-A is exclusive powers of Assistant Charity Commissioner and Deputy Charity Commissioner. Therefore, such powers cannot be delegated, while appointing new trustee the proper procedure of paper publication taking interview etc. have to be followed. It has to be check whether the proposed trustee is fit in all manners to be appointed as a trustee or not. Under such circumstances as per the principle behind Section 47, Section 50 and Section 68, the duty is some of the judicial work and not administrative work. Framing the scheme and appointing first board of trustee should be made by applying judicial mind and not applying administrative mind by the Inspector. Therefore, it is necessary to interference in the impugned judgment passed by the ld. Assistant Charity Commissioner. Hence, I record my findings to point No.1 in the negative and point No.2 in the affirmative and proceed to pass the following order :-

ORDER

1] The appeal is hereby allowed.
2] The impugned judgment and decree dtd. 28/09/2015 in inquiry No.1012/2012, Kamlakar+2 Vs. Digambar+2, passed by ld. Assistant Charity Commissioner is hereby modified as under :-

(i) In the operative order clause No.5 is hereby set aside.

(ii) The ld. Assistant Charity Commissioner is directed to held inquiry himself for appointing first board of trustee as contemplated in the provisions of the Maharashtra Public Trust Act, 1950 to that effect he shall give opportunity of hearing to both the parties and

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interested persons.

- 3] Decree be drawn up accordingly.
- 4] Parties to bear their own costs.
- 5] Inform to the Id. Assistant Charity Commissioner, Washim.
- 6] R & P be returned to the office of A.C.C., Washim as per rules.

(Judgment dictated and pronounced in open Court)

Date : 08/05/2026

(J. P. Zapate)
District Judge -1, Washim.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/Order are same word to word, as per the original order :-

Name of the Stenographer	:- Nitin B. Khandare, Stenographer (Grade-1)
Court Name	:- District Judge-1 & Additional Sessions Judge, Washim
Date	:- 08/05/2026
Order signed by the Presiding Officer on	:- 08/05/2026
Order uploaded on	:- 08/05/2026