

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 3640 of 2025**

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KOTESHWAR MAHADEV PUBLIC TRUST & ORS.

Versus

VISHAL AMRISHBHAI DAVE & ORS.

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Appearance:

MR.PARTH CONTRACTOR(7150) for the Petitioner(s) No. 1,2,3,4

GOVERNMENT PLEADER for the Respondent(s) No. 6

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CORAM:HONOURABLE MR. JUSTICE MAULIK J.SHELAT**Date : 24/03/2025****ORAL ORDER**

1. Learned advocate Mr. Parth Contractor for the petitioners has tendered draft amendment, which is taken on record. The amendment be carried out within two days.

2. Learned advocate Mr. Parth Contractor for the petitioners would submit that an amendment which has been sought by the plaintiffs granted by the Charity Commissioner, is contrary to the provisions of Section 51 of Gujarat Public Trust Act. Learned advocate Mr. Contractor for the petitioners would further submit that by way of amendment, scope of the suit has been enlarged as by way of an amendment. Now the plaintiffs are also challenging the Resolution No. 3 dated 29.05.2012 passed by the defendant-Trust, which is efficacy time barred. He would further submit

that the permission which was granted by the Charity Commissioner was confined the prayers (e to f) made in the application before the Charity Commissioner. Whereas, by way of amendment a new prayer is sought to be added thereby, the plaintiffs want to challenge the aforesaid Resolution, for which the permission is required of the Charity Commissioner, which is undisputed not obtained.

2.1 Learned advocate Mr. Contractor for the petitioner would refer and rely upon the decision of Bombay High Court in the case of ***Amar Vijay Merchant and others Vs. Pushpakumar M. D. Thackersy and others reported in 1997(2) Mh. L.J., 407.***

3. Prima-facie, considering the nature of the amendment and the permission which was granted by the Commissioner, the plaintiffs want to enlarge the scope of suit, thereby, they also want to challenge Resolution No. 3 dated 29.05.2012 passed by the defendant-Trust, for which a necessary permission was required to be obtained from Charity Commissioner as contemplated under Section 51 of the Gujarat Public Trust.

4. This aspect of the matter appears to have been lost cite by the trial Court while adjudicating the impugned

amendment application filed below Exh. 131.

5. In view of above, Issue **Notice**, returnable on 07.04.2025.

6. It is made clear that the amendment of the plaint would be subject to the outcome of the present writ application.

Direct service is permitted.

(MAULIK J.SHELAT,J)

SALIM/