



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
WRIT PETITION NO.11835 OF 2012

Mrs Charu K.Mehta

.. Petitioner

vs.

Mr.Prabodh Mehta &ors

.. Respondents

Mr..Karl Tamboli a/w Ms.Hetal Thakore, Nasir Rizvi and Mr.Abhishek Prabhu
i/b Thakore Jariwala & Associates for Petitioner
Mr.Pratesh Sakseria a/w Mr.Dhirendra Sinha I.b Vidhi Partners for Respt no.1
Ms.Aparna Vhatkar AGP for Respt no.2 & 3

CORAM : B.P. DHARMADHIKARI, J

DATED : 19.12.2012

P. C.

1. Heard.

2. The Respondent has raised a preliminary objection as according to him the Joint Charity Commissioner has only granted adjournment in its discretion and the Writ Petition challenging that discretion is not maintainable.

3. Fact show that proceeding pending before Joint Charity Commissioner is instituted in 2008 under section 41D of the Bombay Public Trust Act. In Writ Petition No.4787 of 2008 on 11.7.2008 this Court directed its adjudication within three months. Thereafter matter has remained pending and it was listed on various dates.

4. It is not in dispute that these proceedings remained stayed between



March,2009 to July, 2010 because of interim orders granted in Letter Patent Appeal. Special Leave Petition pending before the Hon'ble Apex court has been dismissed on 29.8.2011.

5. On 5.10.2012 Respondent's application was conditionally granted by the Joint Charity Commissioner with a warning that no adjournment would be granted on next date and matter would proceed further without evidence. Accordingly, it was adjourned to 26.11.2012. On 26.11.2012 the Respondent's sought adjournment for taking appropriate steps for procuring attendance of the witnesses.

6. The Joint Charity Commissioner has granted last chance subject to payment of costs of Rs.3000/- and adjourned the matter to 3.12.2012.

It appears that it is these two orders which has prompted the Petitioner to approach this Court with a grievance that dispute having serious repercussions on working of the trust is not receiving due consideration and the Respondent no.1 has succeeded in delaying it. The Petition does not disclose what transpired on 3.12.2012. However, learned Counsel for the Petitioner upon instructions state the the learned Presiding Officer was occupied in some other time-bound matter and therefore he could not take up this case. It is reported that matter is now fixed on 24.12.2012.

7. In this situation, as per the order making the matter time-bound, it is apparent that the Respondent no.2 Joint Charity Commissioner is giving the matter the priority it deserves. However, said authority has to keep in mind the fact that matter is being adjourned with some purpose and therefore it had



decided on 5.10.2012 to proceed further in default of evidence against the Respondents.

8. Last date given was on 26.11.2012 and on 3.12.2012 because of some other time-bound matter the Joint Charity Commissioner could not take up this matter. Matter is now coming before on 24.12.2012.

9. In this situation, I am not inclined to interfere at this stage. However, instead of disposing of the Petition, the Petition is kept pending with liberty to the Petitioner to renew their request if the Joint Charity Commissioner is not in a position to take up the matter on 24.12.2012.

Put up for further consideration on 9.1.2013.

(B.PDharmadhikari, J)



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