



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10882 OF 2023

Palus Shikshan Prasarak Mandal through Dhondiram
Pratap Shinde the Secretary of Palus Shikshan Prasarak
Mandal Palus ... Petitioner

Versus

Mangal Ramchandra Mokashi and another ... Respondents

WITH

WRIT PETITION NO.10590 OF 2023

Dhondiram Pratap Shinde ... Petitioner

Versus

Mangal Ramchandra Mokashi and others ... Respondents

Mr. Dilip Shinde, for the petitioners.

Mr. Somnath Thengal i/b Mr. Nilesh Wable, for Respondent No.2 in Writ
Petition No.10882 of 2023 and for Respondent No.5 in Writ Petition
No.10590 of 2023.

CORAM : M. W. CHANDWANI, J.

DATE : 4th May, 2026.

P. C. :

1. Heard the learned counsel for the petitioner in both the petitions, the
learned counsel for respondent No.2 in Writ Petition No.10882 of 2023 and
the learned counsel for respondent No.5 in Writ Petition No.10590 of 2023.



Despite service, nobody appears on behalf of respondent No.1 in both the petitions.

2. Since the petitioner is same and common question is involved in both the petitions, these petitions are disposed of by this common order.

3. The Writ Petition No.10882 of 2023 challenges the order dated 31st October, 2015 passed by the Civil Judge, Junior Division, Palus below Exhibit 39 and the order dated 6th March, 2023 passed by the Joint Civil Judge, Junior Division, Palus below Exhibit 58 in Regular Civil Suit No. 141 of 2012 respectively.

4. The Writ Petition No.10590 of 2023 challenges the order dated 31st October, 2015 passed by the Civil Judge, Junior Division, Palus below Exhibit 94 and the order dated 6th March, 2023 passed by the Joint Civil Judge, Junior Division, Palus below Exhibit 111 in Regular Civil Suit No. 57 of 2009 respectively.

5. The petitioner claims to be the new elected Secretary of the Palus Shikshan Prasarak Mandal, Palus (for short, "Trust"). Respondent No.2 in Writ Petition No.10882 of 2023 i.e the then Secretary – Mr. Sanjay Patil had



filed the Civil Suit No.141 of 2012 against respondent No.1- Tenant in both the petitions for recovery of possession and compensation. Whereas, respondent No.1 – Tenant in Writ Petition No.10590 of 2023 had filed the Regular Civil Suit No.57 of 2009 for injunction against respondent Nos.2 to 5 in Writ Petition No.10590 of 2023. Pending the suits, election of the Trust was conducted wherein a new body was elected consisting of the petitioner in both the petitions as the Secretary. Accordingly, the Change Report was accepted on 26th April, 2015. Therefore, the petitioner in each petition had filed the applications before the Trial Court in both the suits for substituting name of respondent No.2 with his name as an incumbent Secretary of the Trust at that relevant time. Respondent No.2 had objected to those applications.

6. It is worthwhile to mention here that, respondent No.1 - Tenant in both the petitions did not object to the applications filed by the petitioner either in the suit filed by the Trust or in the suit filed by respondent No.1 – Tenant himself.

7. On perusal of the record, it appears that the learned Trial Court rejected the applications for substitution of names filed below Exhibit 39 and below Exhibit 94 respectively. Thereafter, the petitioner wanted to proceed



for review of the above orders. Since, there was delay in challenging them, the petitioner filed applications for condonation of delay below Exhibit 58 and Exhibit 111 in both the suits which also came to be rejected. Thus, the petitioner challenges all the orders in the present Writ Petition.

8. Mr. Thengal, learned counsel appearing on behalf of respondent No. 2 in Writ Petition No.10882 of 2023 - the then Secretary, has fairly conceded that respondent No. 2 has handed over charge of the entire Trust to the newly constituted body, including the petitioner. He, therefore, raises no objection to the substitution of his name with that of the petitioner in both the suits.

9. In view of no objection and the admitted fact that the petitioner is looking after the management of the Trust, both the orders passed below Exhibit 39 and Exhibit 94 need to be set aside. Since, orders rejecting substitution of name are set aside, consequently, further nothing survives so as to condone the delay. Hence, the orders rejecting the applications below Exhibit 58 and Exhibit 111 for condonation of delay are also set aside.

10. In view of the aforesaid discussion, the following order is passed:



: ORDER :

- (a) The Writ Petitions are allowed.
- (b) Impugned orders (i) dated 31st October, 2015 passed by Civil Judge, Junior Division, Palus below Exhibit 39 in Regular Civil Suit No. 141 of 2012, (ii) dated 6th March, 2023 passed by Joint Civil Judge, Junior Division, Palus below Exhibit 58 in Regular Civil Suit No. 141 of 2012 (iii) dated 31st October, 2015 passed by Civil Judge, Junior Division, Palus below Exhibit 94 in Regular Civil Suit No.57 of 2009 and (iv) dated 6th March, 2023 passed by Joint Civil Judge, Junior Division, Palus below Exhibit 111 in Regular Civil Suit No.57 of 2009 are set aside.
- (c) Applications filed below Exhibits 39, 58, 94 and 111 are allowed.
- (d) Since the suits are of the year 2009 and 2012 respectively, the learned Trial Court is requested to see that the same are disposed of as expeditiously as possible.

[M. W. CHANDWANI, J.]