

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

IA 2/2008 in
Petition(s) for Special Leave to Appeal (Civil) No(s).3933/2007
(From the judgement and order dated 06/02/2007 in RA No. 6/2006
in FA No. 1066/2005 of The HIGH COURT OF BOMBAY)

BURZOR RUSTOM JOSHI Petitioner(s)
VERSUS

ZARIR RUSTOM JOSHI & ORS. Respondent(s)
(With appln. for directions and office report)

Date: 09/04/2009 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE R.M. LODHA

For Petitioner(s) Mr.Gaurav Agrawal,Adv.

For Respondent(s) Mr. V.N. Ganpule, Sr.Adv.
Mr.Sapan B. Meitei, Adv.
Mr. Naresh Kumar Gaur, Adv.
Mr. Surinder Dutt Sharma, Adv.
Mr. Ashok Kumar Singh,Adv.
Mr. A.S. Bhasme ,Adv

Res.No.6 Ms. Manjula Gupta, Adv.

UPON hearing counsel the Court made the following
ORDER

By this application the petitioner/applicant seeks
the following reliefs:

a) extend the time for disposal of Petitioner's Change
Report No.4019 of 1998 by the Deputy Charity
Commissioner, Mumbai till 31.7.2009 or such
reasonable period as this Hon'ble Court may deem fit
and proper; and ...2/-

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b) direct that the application filed by the Respondent
No.6 on 5.4.2007 under Section 47 of the Bombay
Public Trust Act, 1950, [which has been wrongly said
to be a Change Report under Section 22 of the Act], be
taken up independently and disposed of by the Charity
Commissioner, Mumbai in accordance with law;

We have heard learned counsel for the contesting
respondents.

Having glanced through the provisions of the Bombay Public Trust Act, 1950, (for short 'the Act'), it is manifest that the Change Report has to be dealt with in terms of Section 23 of the Act by the Assistant Charity Commissioner In Charge of the Public Trust Registration Office where the register is kept whereas an application under Section 47 of the Act has to be dealt with by the Charity Commissioner. In view of the clear language of the said provisions, in the first instance, the Change Report, cannot be dealt with by the Charity Commissioner. In that view of the matter, we modify our order dated 31st July, 2007 to the extent that Change Report No.4019 of 1998 dated 25th August 1998 may be dealt with by the Deputy Charity Commissioner and Application No.6/2008 under Section 47 of the Act, shall be dealt with by the Charity Commissioner. The said authorities shall try to dispose of the matters before them as expeditiously as practicable, preferably, within six months from today.

The application stands disposed of in the above terms.

..3/-

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I.A.No.2/2008:

Learned counsel for the applicant seeks leave to withdraw the application stating that the applicant shall move an appropriate application before the Charity Commissioner requesting him to take necessary steps to let out the property in question on leave and licence basis, as per the procedure prescribed under the Bombay Public Trust Act, 1950.

Accordingly, the application is dismissed as not pressed. However, we clarify that in the event of such an application being moved, the Charity Commissioner shall take appropriate steps in the matter strictly as per the prescribed procedure. Our order dated 31st July, 2007 shall stand modified to that extent.

[Usha Bhardwaj]
Court Master

[Sneh Bala Mehra]
Court Master