

SUPR EME COUR T OF I ND I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).24630/2009
(From the judgement and order dated 24/06/2009 in WP No. 4944/2009
of The HIGH COURT OF BOMBAY)

PRASHANT KISOR MEHTA Petitioner(s)

VERSUS

CHE TAN PRABODH MEHTA & ORS. Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned
Judgment and prayer for interim relief and office report))

Date: 09/10/2009 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE ALTAMAS KABIR
HON'BLE MR. JUSTICE CYRIAC JOSEPH

For Petitioner(s) Mr. Mukul Rohtgi, Sr. Adv.
Mr. Amit Sibal, Adv.
Mr. Ajay Bhargava, Adv.
Mrs. Vanita Bhargava, Adv.
Mr. Shariq Mohdhammid, Adv.
Ms. Rikha Gupta, Adv.
for M/S. Khaitan & Co.,Advs.

For Respondent(s) Mr. Ranjit Kumar, Sr. Adv.
Mr. S. Guru Krishna Kumar, Adv.
Mr. Hemant Sharma, Adv.
Mr. Prashant V.G. Adv.
Ms. Richa Srivastava, Adv.
Mr. Thomas T.Karimpana, Adv.
Ms. Indu Sharma,Adv.

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UPON hearing counsel the Court made the following
ORDER

In this special leave petition, the petitioner has
challenged an order dated 24th June, 2009, passed by
the learned Single Judge of the Bombay High Court in
Writ Petition No.4944 of 2009, dismissing the writ
petitions filed by the

writ petitioner, Prashant Kisor Mehta, and upholding
the order passed by the Charity Commissioner on 23
April, 2009, rejecting the petitioner's prayer
intervention by way of an application filed under
Section 41D of the Bombay Public Trust Act, 1950.

The said application under Section 41D
above Act had been filed by the respondent No.1 herein
for removal of the respondent No.2 Smt. Charu Mehta,
as Trustee of the Lilavati Kirtilal Mehta Trust.

The main ground of challenge, which has been
convassed before us is that in the application filed
under Section 41D of the Act, various allegations have
been made against the petitioner herein and the
allegation against the respondent No.2 is that she is
alleged to have aided and abetted the petitioner herein
in committing such acts, which were against the
interest of the Trust. Learned counsel has submitted

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that when the allegations had been established against
the petitioner, the question of committing
abetting by the respondent No.2 could not be
considered and that the Charity Commissioner in
rejecting the petitioner's prayer for intervention
appears to have not taken note of the said
circumstances.

Learned counsel has also submitted that there are
several proceedings pending between the parties where
any finding against the petitioner herein could be used
against him and that unless the petitioner was given an
opportunity of disproving such allegations in respect
whereof he was likely to be prejudiced in the other
proceedings.

On the other hand, Mr. Ranjit Kumar, learned
Senior counsel appearing for the respondent No.1 has
urged that under Section 41D of the Bombay Public

Trust Act, 1950, what is contemplated in Sub-section (2) is the issuance of notice as and when the Charity Commissioner proposes to take action either for suspension, removal or dismissal of a trustee, after framing charges against the said trustee or the person against whom the action is proposed to be taken.

5 According to Mr. Ranjit Kumar, that stage had not yet arrived, since charges have not yet been framed, and the matter was at a stage of argument regarding framing of charges.

Having considered the submissions made on behalf of the respective parties, we are of the view that neither the order passed by the Charity Commissioner nor that of the High Court requires interference at this stage. In the event any finding, as to the allegations made against the petitioner herein is at all arrived at for the purpose of framing charges against the respondent No.2, it will always be open to the petitioner to challenge the same. It is not as if the petitioner has been non-suited by virtue of the order by which his impleadment in the proceedings before the Charity Commissioner has been dis-allowed, unless particular application. Apart from the above, we are of the view that at this stage, one cannot anticipate as to what will be the outcome of the order that may be passed by the Charity Commissioner. Even if we accept the submissions made on behalf of the petitioner, there is no guarantee that the Charity Commissioner will frame charges against the abettor till such time as charges against the persons, who are alleged to have committed such wrongs against the Trust have been proved.

6 Apart from the above, we may also observe, as

has already been observed by the Charity Commissioner, that if at all charges are framed against the respondent No.2 and in that process any finding is arrived at against the petitioner, the same cannot be used against the petitioner in collateral proceedings, as the findings which may be arrived at would be if in this or any opportunity having been given to him.

In that view of the matter, we are not inclined to interfere with the special leave petition and the same is dismissed with the aforesaid observations.

(Sheetal Dhingra)
Court Master

(Usha Sharma)
Court Master