

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).23327/2007

(From the judgement and order dated 28/08/2007 in SA No. 608/2005
of the HIGH COURT OF BOMBAY AT NAGPUR)

FAKHRULLAKHAN & ORS.

Petitioner(s)

VERSUS

ABDUL WASIK & ORS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 30/01/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE V.S. SIRPURKAR

For Petitioner(s) Mr. Manish Pitale, Adv.
Mr. Chander Shekhar Ashri, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
ORDER

Despite service of notice, nobody appears on behalf of the
respondents.

Leave granted.

For the reasons mentioned in the signed order, the impugned
judgment is set aside, the matter is remitted to the High Court for
consideration thereof afresh on merit and the appeal is disposed of
accordingly.

(A.S. BISHT)
COURT MASTER

(USHA SHARMA)
COURT MASTER

[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 627 OF 2009
(Arising out of SLP(C) No. 23327/2007)

FAKHRULLAKHAN AND ORS.

... APPELLANT(S)

:VERSUS:

ABDUL WASIK AND ORS.

... RESPONDENT(S)

ORDER

Despite service of notice, nobody appears on behalf of the respondents.

Leave granted.

Appellants herein have filed an appeal before the High Court in terms of sub-section (4) of Section 72 of the Bombay Public Trust Act, 1950. The High Court has dismissed the same in limine, inter alia, on the premise that the courts below had concurrently held that the change report filed by the respondents was not acceptable. As an appeal against the order of the Charity Commissioner can be filed in terms of sub-section (4) of Section 72 of the said Act, in our opinion, the High Court should have considered the matter on merit.

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For the reasons aforementioned, the impugned judgment is set aside and the matter is remitted to the High Court for consideration of the matter afresh on its merit.

The appeal is disposed of accordingly.

.....J
(S.B. SINHA)

.....J
(V.S. SIRPURKAR)

NEW DELHI,
JANUARY 30, 2009.