

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9483 OF 2010
WITH
CIVIL APPLICATION NO.14114/2010,
CIVIL APPLICATION NO.16649/2010,
CIVIL APPLICATION NO.4861/2015,
CIVIL APPLICATION NO.4860/2015,
CIVIL APPLICATION NO.6658/2015
AND CIVIL APPLICATION NO.11874/2015
IN WRIT PETITION NO. 9483 OF 2010

KULDEEPSINGH JAYSINGH DODHYA
VERSUS
GURU TEG BAHADUR EDUCATIONAL SOCIETY AND ANR

...
Advocate for Petitioner : Shri S.M.Godsay
Advocate for Respondent 1 : Shri P.V.Mandlik, Sr. Adv.
i/b Shri A.S.Gandhi,
AGP for Respondent 2: Shri K.N.Lokhande
Advocate for Respondents 3 & 4 : Shri R.N.Dhorde, Sr. Adv.
i/b Shri V.R.Dhorde
Advocate for Intervenor : Shri A.S.Bajaj
Advocate for Intervenor : Shri R.P.Bhumkar
...

CORAM : RAVINDRA V. GHUGE, J.
Dated: October 30, 2015
...

PER COURT :-

1. During the pendency of this petition, the litigating sides had approached the learned Division Bench of this Court in Letters Patent Appeal No.124 of 2011 ("LPA"). By order dated 9.3.2015, the learned Division Bench has concluded as under:-

"1. The instant Letters Patent Appeal arises out of interim order passed by the learned Single Judge in Writ Petition No.9483/2010 dated 29th November, 2010.

2. *Property belonging to respondent no.1 trust was proposed to be sold for development purposes of the educational institution. Respondent no.1 institution, after publishing an advertisement in the local newspaper, called upon prospective purchasers to put up their offers and, accordingly, the present appellant, who is one of the offerers, has put up highest offer and, as such, the educational institution took a decision to alienate the property belonging to the trust in favour of the appellant. An application was tendered as required under Section 36(1) of the Bombay Public Trusts Act, seeking permission for disposal of the property. Learned Charity Commissioner, after extending an opportunity of hearing to the appellant as well as the trust, and other interested parties, proceeded to allow the application and permitted the educational institution to alienate the property. The order passed by the Assistant Charity Commissioner is subjected to challenge in the writ petition bearing No.9483/2010 at the instance of respondent no.3.*

3. *The main contention raised by respondent no.3 in the writ petition is as regards gross deficiency in the amount offered by the appellant - the prospective purchaser. According to respondent no.3, the value of the property runs in crores and is much higher than that is offered by the appellant. In order to ascertain correctness of the contentions raised by respondent no.3, and to have a prima facie satisfaction, we called upon respondent no.3 as well as the intervenors to put up their offers and deposit certain amount in order to demonstrate their bona fides.*

4. *In Civil Application Stamp No.29045/2014 with C.A.Stamp No.29048/2014, we directed the intervenors to deposit an amount of Rs. 10 crores within a period of four weeks from the date of the order as well as to deposit further amount of Rs.10 crores within a period of eight weeks.*

5. One Mr. Tarvindersingh Dhillon presented an application expressing his willingness to purchase the property for an amount of Rs.50 crores and onwards and also agreed to deposit a sum of Rs.20 crores in this Court in order to demonstrate his bona fides.

One Mr. Parvindersing Satyal also expressed his willingness to offer substantial amount towards the price of the property and also expressed his willingness to deposit an amount of Rs.20 crores in this Court.

This Court permitted the intervenors to deposit the amount and it was further directed to take up the Letters Patent Appeal along with the pending Civil Applications.

6. In pursuance to the order passed by us on 5th November, 2014, Mr. Tarvindersingh Dhillon, applicant (intervenor) in Civil Application No.10921/2014, has deposited a sum of Rs.20 crores in this Court. It, thus, prima facie appears that the intervenors are willing to offer more price for the land belonging to the respondent institution which has been put up for sale.

It also cannot be overlooked that the challenge raised to the order passed by the learned Joint Charity Commissioner, according permission to sell the property belonging to respondent no.1 trust is under consideration of the learned Single Judge in Writ Petition No.9483/2010.

7. Considering the facts and circumstances of the case, it is not desirable to cause interference in the interim order passed by the learned Single Judge on 29th November, 2010, however, this appeal can be disposed of with a request to the learned Single Judge to take up the writ petition for consideration and dispose of the same preferably within a period of three months from today.

The parties may make a suitable request to the learned Single

Judge.

The intervenor i.e. applicant in Civil Application No.14114/2010 is permitted to intervene in Writ Petition No.9483/2010 and the learned Single Judge may consider the contentions of the intervenor while disposing of the writ petition.

The amount deposited by the intervenors in this Court shall be invested in a fixed deposit initially for a period of six months. It would be open for the learned Single Judge to pass appropriate order, if occasion arises, in respect of deposit of the amount.

In view of above, the Letters Patent Appeal stands disposed of.

Pending Civil Applications do not survive and are disposed of.”

2. The litigating sides as well as the intervenor Tarvindarsingh Dhillon and Company, who were before the learned Division Bench in LPA, have filed the 'terms of settlement' before this Court dated 30.10.2015, duly signed and sworn on oath along with a map.
3. Same is taken on record and marked Exhibit “X” for identification, collectively.
4. The petitioner in this petition has filed a separate purshis duly signed and verified, contending therein that this petition be disposed off by consent in terms of the settlement - Exhibit “X”.
5. The said purshis is taken on record and marked as Exhibit “Y” for identification.

6. The learned Advocates jointly point out from paragraph No.8 of Exhibit "X" that the impugned order of the learned Charity Commissioner, Aurangabad dated 30.9.2010 in Enquiry No. 11 of 2008 be modified in terms of the Settlement - Exhibit "X". All the learned Advocates jointly submit that the impugned order, therefore, be replaced by the terms of the settlement, by consent of the parties.

7. In the light of the above, the order of the learned Charity Commissioner dated 30.9.2010 in Enquiry No.11 of 2008 stands modified and stands replaced in terms of the settlement - Exhibit "X" and Exhibit "Y".

8. This petition is, therefore, partly allowed in terms of Exhibits "X" and "Y".

9. All pending Civil Applications stand disposed off.

(RAVINDRA V. GHUGE, J.)

...

akl/d