

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1073 OF 2017

The Uttam Shejari Society, Tardal

Through its President

Sou.Chitra Pafulla Bhore and anr. : Petitioners.

versus

The Joint Charity Commissioner,

Kolhapur Division, Kolhapur : Respondent.

Mr. Prajakt M Arjunwadkar for the Petitioners.

Mr. S D Rayrikar, AGP, for the Respondent-State.

CORAM : R. M. SAVANT, J.

DATE : 07th February 2017

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 08/06/2016 passed by the learned Joint Charity Commissioner, Kolhapur Division, Kolhapur. By the said order the application filed under Section 36 of the Maharashtra Public Trust Act (for short “the said Act”) by the Petitioner came to be rejected.

2 The Petitioner is a Trust registered under the said Act. The Petitioner it seems had published an advertisement in the local newspaper “Dainik Mahasatta” on 27/03/2004 calling for offers for sale of its property mentioned in the said advertisement. The said property is Gat No.318 admeasuring 3 Hectors and 18 Ares at village Tardal, Taluka Hatakanangale, District Kolhapur. Pursuant to the said advertisement, three offers were

received which were following :-

Sr.No.	Name	Amount
1	Rajgonda Balaso Chougule	Rs.35,00,000/-
2	Atul Shivappa Salmalge	Rs.35,00,000/-
3	Vilas Shivappa Salmalge Sujata A. Patil & Dastgir M. Mujawar	Rs.40,00,000/-

Hence Vilas Salmalge had given the highest offer of Rs.40,00,000/-. It seems that the said Vilas Salmalge was not in a position to comply with his offer of Rs.40,00,000/-. The matter rested there for sometime. Ultimately it seems that the said Vilas Salmalge and the Petitioner Trust had decided to offer the land in question to one PP. Ishwar Mahaswamiji Bhakti Yogashram which also appears to be a trust, some time in the year 2010 for the same price i.e. Rs.40,00,000/- which was offered by the said Vilas Salmalge. It seems that the said offer was acceptable to the said PP. Ishwar Mahaswamiji Bhakti Yogashram. The Petitioner thereafter applied for permission to the Charity Commissioner under Section 36 of the said Act by filing an application on 13/06/2011. In the said application the antecedent facts relating to the offers being invited by a public notice in the newspaper, the offers received by the Petitioner and the inability of the highest offerer to comply with his offer were stated.

3 The learned Joint Charity Commissioner having regard to the nature of the permission sought by the Petitioner and having regard to the material on record has by the impugned order rejected the said application.

The rejection is on the ground that the Petitioner has chosen to enter into a transaction with the said P.P. Ishwar Mahaswamiji Bhakti Yogashram without obtaining the permission of the Charity Commissioner. The learned Joint Charity Commissioner has further observed that the Petitioner has not mentioned the reason as to why the highest offerer could not abide by his offer. According to the learned Joint Charity Commissioner the property in question has already been sold in the year 1990. The learned Joint Charity Commissioner therefore directed the Inspector to conduct an inquiry and submit his report to her which is the part of the directions issued in the impugned order.

4 The learned counsel appearing on behalf of the Petitioner Shri P M Arjunwadkar would seek to contend that the finding of the learned Joint Charity Commissioner that the sale of the property in question has already been effected in the year 1990 is erroneous. It was the submission of the learned counsel that what was sought to be done by the Petitioner Trust was seeking permission for the sale being effected in favour of P.P. Ishwar Mahaswamiji Bhakti Yogashram.

5 In my view, it is not possible to accept the contentions urged by the learned counsel for the Petitioner. It is trite that unless the permission of the Charity Commissioner is obtained, no transaction can be entered into in

respect of the alienation or sale of the property of any trust. In the instant case the record discloses that the advertisement was issued in the year 2004 pursuant to which the highest offer of Rs.40,00,000/- was received by the Petitioner Trust. The Petitioner Trust by making an application in the year 2011 had sought sanction for the said offer of Rs.40,00,000/- when the prices had gone up appreciably at the said point of time. In fact the learned Joint Charity Commissioner in the impugned order has observed that in the year 2015 the value of the property was Rs.1,76,46,000/-. In my view, the course of action propounded by the learned Joint Charity Commissioner by the impugned order cannot be found fault with having regard to the manner in which the Trustees of the Petitioner Trust are seeking to deal with the property in question. In that view of the matter, no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]