

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 779 OF 2017

IN

WRIT PETITION NO. 1346 OF 2012

Darshan Trust] Applicant

IN THE MATTER OF

Shri Yogesh Thakkar & Anr.]

Vs.

The Charity Commissioner & Ors.] Respondents

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Mr. Ravi Kadam, Senior Advocate for the applicant and original respondents No. 7 to 9 in Writ Petition No. 1346 of 2012.

Ms. Vaishali Nimbalkar, A.G.P for respondent No.1.

Mr. S.R. Nargolkar a/w Aumkar Joshi i/b Kanga & Co., for respondents No. 2 to 6.

Ms. Radhika Samant, for the petitioner in Writ Petition No. 1346 of 2012.

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CORAM : R.G. KETKAR, J.

DATE : 20TH APRIL, 2017.

P.C.

Heard Mr. Kadam, learned Senior Counsel for the applicant, Mr. Nargolkar, learned Counsel for respondents No.

2 to 6, Ms. Nimbalkar, learned A.G.P for respondent No.1 and Ms. Samant, learned Counsel for the petitioners at length.

2. This application is filed by respondent No.7 in Writ Petition No. 1346 of 2012. Parties shall hereinafter be referred to as per their status in the Writ Petition.

3. By this application, respondent No.7 and respondent No.2 – Osho International Foundation sought leave to file an application u/s 50A (2) of the Maharashtra Public Trusts Act, [for short 'Act'] before the Charity Commissioner, Maharashtra State, Mumbai with direction to respondent No.1, Charity Commissioner to decide application despite pendency of Writ Petition No. 1346 of 2012.

4. Ms. Samant has tendered affidavit in reply filed by the petitions opposing the said application. She submitted that for the reasons set out in the reply, application may be rejected.

5. Ms. Samant submitted that after hearing both the sides, learned Single Judge admitted petition on 7th January, 2013 by

issuing Rule. By way of interim order, respondent No.7 is restrained from further alienating the property in question without leave of this Court. If the prayer made in this application is granted, it will be contrary to the order dated 7th January, 2013.

5. I have considered the rival submissions advanced by the learned Counsel appearing for the parties. I have also perused the material on record. Writ Petition takes exception to the judgment and order dated 17th March, 2011 passed by the Charity Commissioner, Maharashtra State, Mumbai by which an application filed by respondent No.2 u/s 36 (1) (a) of the Act by proposing to gift land bearing C.T.S No. 3, Koregaon Park, Pune 411 001 in favour of respondent No.7, Darshan Trust was allowed.

7. After perusing the material on record, as also submissions advanced by the learned Counsel for the parties, in my opinion, interest of justice will be served by permitting respondent No.7 to file an application before the Charity Commissioner for the relief claimed in the present application reserving liberty to the parties to file their response. Charity Commissioner will decide the application and Ms. Nimbalkar, learned A.G.P will place the order

of the Charity Commissioner before this Court for direction. All the contentions of the parties on merits are expressly kept open. Civil Application is disposed of accordingly.

[R.G. KETKAR, J.]