

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

WRIT PETITION NO.7058 OF 2016

Sinhgad Technical Education Society	]	
Registered under Society's Registration Act, 1860	]	
having its registered office at	]	
S. No.44/1, Vadgaon (BK),	]	
Pune-411 041.	]	
Through its founder – President	]	
Shri. M. N. Navale	]	]..Petitioner

Versus

The Joint Charity Commissioner,	]	
Pune Region, Pune	]	
[Notice to be served on the Ld. Additional	]	
Government Pleader appearing for State of	]	
Maharashtra under Order XXVII, Rule 4,	]	
of the Code of Civil Procedure, 1908]	]	]..Respondent

Mr. V. P. Sawant i/by Mr. N. S. Dhumal for the Petitioner.
Mr. S. D. Rayrikar, AGP for the Respondent No.1.

CORAM : R. M. SAVANT, J.
DATE : 17th JANUARY, 2017

ORAL JUDGMENT

1 Rule. With the consent of the Learned Counsel for the parties
made returnable forthwith and heard.

2 The writ jurisdiction of this Court is invoked against the
order dated 01.01.2016 passed by the Learned Joint Charity
Commissioner, Pune Region, Pune. By which order, the application being

No.68 of 2015 filed by the Petitioner came to be rejected.

3 It is not necessary to burden this order with unnecessary details having regard to the nature of the directions to be issued :-

Suffice it would be to state that the Petitioner herein is a public trust registered under the Maharashtra Public Trusts Act, 1950. The Petitioner has various properties in the State of Maharashtra. The Petitioner had filed the application in question under Section 36(1)(a) of the Maharashtra Public Trusts Act, 1950, seeking permission to sell its property situated at Warje, Taluka Haveli, District Pune, bearing Survey No.81, Hissa No.1/1, Survey No.82, Hissa No.2/1, Survey No.82, Hissa No.3/1, Survey No.82, Hissa No.1+4/5/1+2/4/2+3+4,4/5/2+ 3+3+8, Survey No.111, Hissa No.1, totally admeasuring 4 Hectors and 28.6 Gunthas, out of which, land admeasuring 98.98 R was the subject matter of the said application. It was stated in the said application that the said land has been reserved for various purposes namely, residential construction, primary school, market, Police Station etc. and therefore no construction is permissible on the said property.

4 The Learned Joint Charity Commissioner considered the said application and rejected the same by the impugned order dated

01.01.2016. A reading of the impugned order discloses that the said application has been rejected primarily on the ground that the said land is reserved for various purposes and therefore, it cannot be permitted to be sold. It is further observed by the Learned Joint Charity Commissioner that the Petitioner i.e. Applicant can obtain the TDR or compensation in lieu of the said land but it cannot be sold when it is reserved for a particular purpose.

5 In my view, the Learned Joint Charity Commissioner has totally misdirected himself by rejecting the application on the ground mentioned in the impugned order. The said ground cannot be said to be a ground which is germane for the consideration of an application filed under Section 36(1) by a public trust seeking permission to sell its property. The relevant considerations are the legal necessity to sell the property and the purposes for which the proceeds would be put to by the trust. However the said yardsticks have not been applied by the Learned Joint Charity Commissioner. Even if the land is under reservation, the land can be permitted to be sold if the two requirements as above are fulfilled by permitting the sale subject to the said reservations and putting a condition that the purchaser would be bound by the said reservations. In my view, therefore, since the exercise carried out by the Learned Joint Charity Commissioner is not in accord with the law enunciated by this

Court, the impugned order dated 01.01.2016 would have to be set aside and the matter is required to be relegated back to the Learned Joint Charity Commissioner for a de-novo consideration of the application in terms of the observations made hereinabove. The Writ Petition is allowed to the aforesaid extent. Rule is accordingly made absolute with parties to bear their respective costs.

6 On remand, the Petitioner may appear before the Learned Joint Charity Commissioner on 07.02.2017. The Learned Joint Charity Commissioner may thereafter consider the application expeditiously.

[R.M.SAVANT, J]