

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1195 OF 2016**

Shri Lalit Hanjarimal Oswal

..Petitioner

Vs.

Shri Chimanlal Oswal Jain, Trust, Ratnagiri & Ors

..Respondents

Mr. A. M. Adgule for the Petitioner

Mr. S. M. Railkar for the Respondent Nos.1, 1A & 1B

CORAM : R. M. SAVANT, J.

DATE : 22nd FEBRUARY, 2017

P.C.

1 The order dated 26-11-2015 passed by the Joint Charity Commissioner, Kolhapur, rejecting the application filed by the Petitioner for extending the time for executing agreement with the Respondent trust is taken exception by way of the above Petition.

2 The said order has its origins in the order dated 3-6-2015 passed by the Joint Charity Commissioner granting permission to the Respondent trust to alienate the property bearing CTS No.2457 admeasuring 18 x 7.6 sq.ft. i.e. 17.1 sq.mtr. to the Petitioner Lalit H. Oswal. It seems that after the said order dated 3-6-2015 came to be passed by the Joint Charity Commissioner. An application was made by the Respondent trust to carry out correction in the description of the property. The said application was allowed by the Joint Charity Commissioner by order dated 28-8-2015. In the context of the present

Petition clause (3) of the operative part of the said order is material and is reproduced herein under :

“3) The trustees of the applicant's trust shall complete the transaction within three months from the date of this order.”

3 Hence in terms of clause (3) the trustees were directed to complete the transaction within 3 months of the said order. The said period was therefore to come to an end on 28-11-2015. The Petitioner herein made an application on 17-11-2015 seeking extension of time to complete the said transaction on the grounds mentioned in the said application. The grounds on which the said extension was sought was that inspite of the Petitioner calling upon the Respondent trust, the Respondent trust was refusing to execute the agreement in favour of the Petitioner. The said application filed by the Petitioner has been rejected by the Joint Charity Commissioner by the impugned order dated 26-11-2015. The application was an interim application in the main application filed by the Petitioner for seeking direction that the Respondent trust be directed to execute the agreement. Since the Joint Charity Commissioner has proceeded on an erroneous premise that the period has already got over on 2-9-2015 which is on the basis that the time period is to be computed from the original order i.e. 3-6-2015 notwithstanding the directions contained in clause (3) of the order dated 28-8-2015 as above.

4 In my view the impugned order would have to be set aside and

the matter would have to be relegated back to the Joint Charity Commissioner for a denovo consideration of the application. The Learned Counsel Mr. Adagule pointed out that the trust has also filed an application under Section 36(2) of the said Act for revocation of the permission. If that be so, then it would be just and proper if the three applications are taken up for hearing together.

5 The interim application as well as the main application filed by the Petitioner to be heard along with the application filed by the Respondent No.1 trust under Section 36(2) of the said Act. The parties to appear before the Joint Charity Commissioner on 10-3-2017. The Joint Charity Commissioner, Kolhapur to decide the applications latest by 30-4-2017. Needless to state that the contentions of the parties are kept open for being urged before the Joint Charity Commissioner.

6 With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]