

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

WRIT PETITION NO. 8625 OF 2017

Shri. Gowardhan Sanstha (Regd) Wai & Anr. ... **Petitioners**

V/s.

The State of Maharashtra & Ors. ... **Respondents**

Mr. V. P. Sawant i/b Prabhakar Jadhav for the Petitioner.

Mr. S.D. Rayrikar, AGP for the Respondent Nos. 1 to 3.

Mr. Satyajeet Rajeshirke for the Respondent No.4.

CORAM : R.D. DHANUKA, J.

DATE : 21st JUNE, 2018

P.C.:

. By this Writ Petition filed under Article 227 of the Constitution of India, the Petitioner has impugned the Order dated 08.02.2017 passed by the Joint Charity Commissioner, Pune Region, Pune rejecting the application filed by the Petitioner under Section 36(1) of the Maharashtra Public Trusts Act, 1950 seeking permission to sell/develop the property of trust. The application was filed by the Petitioner seeking such permission some time in the year 2015. The Joint Charity Commissioner has rejected the application on various grounds including the ground that the Petitioner has failed to prove the compelling legal necessity for selling/developing the trust property and also on the ground that sale of property required by the Petitioner was not in the interest of the Trust. The Joint Charity Commissioner has also held that the Petitioner had not produced copy of the

resolution passed by the Trust issuing public notice, if any, to sell the Trust property for which the permission was sought under Section 36(1) of the Maharashtra Public Trusts Act. The learned Joint Charity Commissioner also considered a report from the Inspector alleged to have been filed by him in respect of current market value of the property while rejecting the application filed by the Petitioner without giving an opportunity to the Petitioner. In these circumstances, in my view, interest of justice would be met with if the impugned order dated 08.02.2017 is set aside and the application filed by the Petitioner under Section 36(1) is restored to file before the learned Joint Charity Commissioner for considering the matter afresh in accordance with law.

2 The Petitioner shall produce the copy of resolution to sell the property of Trust for which the application under Section 36(1) was made before the Authority. The Petitioner shall also produce sufficient material before the Authority to show the compelling legal necessity as of today to sell/develop the property in question. If the Petitioner seeks to rely upon any valuation report of the property, the same shall be produced before the Authority. The Authority shall also furnish the copy of the report if the Authority seeks to rely upon for considering the valuation of the property in question, the same shall be furnished to the Petitioner with an opportunity to deal with the same.

3 The Petitioner is not required to file a fresh application under Section 36(1) and shall pursue the earlier application by producing additional material

on record as directed.

4 The learned Joint Charity Commissioner shall decide the said application afresh without being influenced by the observation made and the conclusion drawn in the impugned order dated 08.02.2017 passed by the learned Joint Charity Commissioner. The learned Joint Charity Commissioner shall make an endeavour to dispose off the said application expeditiously and not later than four months from the date of the first meeting.

5 Order dated 08.02.2017 is accordingly set aside with aforesaid directions.

6 Petition is disposed off accordingly with no order as to costs.

(R.D. DHANUKA, J.)