

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 2545 OF 2013****Nanasaheb Kore Charitable Trust,****Through Trustee,****Shri Chitrasen Nagnath Gulwe****..... Petitioner****VERSUS****Joint Charity Commissioner, Kolhapur Region Respondent**

Mr.S.S.Patwardhan for the Petitioner.

Ms.K.N.Solunke, A.G.P. for the State – Respondent no. 1.

CORAM : R.D. DHANUKA, J.**DATE : 2nd JULY, 2018****P.C.**

By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 24th July,2012 passed by the learned Joint Commissioner, Kolhapur Region, Kolhapur rejecting the application filed by the petitioner under section 36(1)(a) of the Maharashtra Public Trust Act, 1950. The learned Joint Charity Commissioner has rejected the application on the ground that the petitioner could not prove the compelling necessity to alienate the property in question and also on the ground that the valuation of the property at Rs.85 lacs was less.

2. It is not in dispute that the application filed by the petitioner was on 7th July,2010. The decision taken by the petitioner to sale the property was in the meeting of the members held on 17th April, 2010. In my view, the necessity of the petitioner must have changed in last eight years. The valuation of the property also must have substantially

changed. In these circumstances, I am inclined to allow the petitioner to file a fresh application for sale under section 36(1)(a) of the Maharashtra Public Trust Act, 1950 on the basis of the prevailing situation including the necessity of the petitioner to sale the property in question and also on the basis of the current valuation of the property to be considered by the learned Joint Charity Commissioner.

3. The petitioner is permitted to make a fresh application within four weeks from today.

4. The learned Joint Charity Commissioner shall dispose of the said application expeditiously and not later than four months from the date of the receipt of the said application.

5. It is made clear that the learned Joint Charity Commissioner shall decide the said application afresh considering the necessity of the petitioner as on today and the valuation of the property as on today without being influenced by the observations made and the conclusion drawn in the impugned order dated 24th July, 2012.

6. Writ petition is disposed of in the aforesaid terms. No order as to costs.

7. The parties to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]