

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9690 OF 2017

Motiram Chaya Patil

..... Petitioner

VERSUS

The State of Maharashtra & Anr.

..... Respondents

Mr.Rahul M. Ranpise for the Petitioner.

Mr.S.H.Kankal, A.G.P. for the State – Respondent nos. 1 and 2.

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 25th April, 2017 passed by the learned Joint Charity Commissioner rejecting the application filed by the petitioner trust under section 36(1) of the Maharashtra Public Trust Act, 1950. Learned counsel for the petitioner invited my attention to various findings recorded by the learned Deputy Charity Commissioner and would submit that the application of the petitioner under section 36(1) of the Maharashtra Public Trust Act has been rejected only on the ground that if the petitioner is allowed to sale the property in question, there will have no other property left with the trust. He submits that there are several properties of the petitioner on record of the Charity Commissioner in scheme-1 and thus the findings rendered by the learned Joint Charity Commissioner that there will be no property left if the property for which the permission was sought is allowed to be sold is *ex-facie*

contrary to the documents on record.

2. Mr. Kankal, learned A.G.P. for the respondents on the other hand submits that the plot which was proposed to be sold by the petitioner was given to the petitioner by the Government subject to various terms and conditions and thus the petitioner even otherwise could not have been permitted to sale the said plot.

3. A perusal of the order passed by the learned Joint Charity Commissioner on 25th April, 2017 indicates that the permission is rejected only on the ground that if the permission was granted to sale the plot in question, there would be no other property left to the trust which finding is based on a wrong premise and contrary to record. I, therefore, pass the following order :-

(a) The impugned order dated 25th April, 2017 passed by the learned Joint Charity Commissioner is set aside.

(b) The application filed by the petitioner (255 of 2016) under section 36(1)(a) of the Maharashtra Public Trust Act, 1950 is restored to file before the learned Joint Charity Commissioner.

(c) The learned Joint Charity Commissioner shall consider the said application afresh without being influenced by the observations made and the conclusion drawn in the impugned order dated 25th April, 2017.

(d) The learned Joint Charity Commissioner shall also consider whether the petitioner would be required to obtain any further sanction from the Government for sale of the said plot in question and also the present need of the petitioner to sale the present property and the valuation thereof.

(e) Writ petition is disposed of in the aforesaid terms.
No order as to costs.

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

[R.D. DHANUKA, J.]