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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9805 OF 2016

Ganu M. Gaikar	...Petitioner
V/s.	
The State of Maharashtra & Ors.	...Respondents

Mr.Sagheer A. Khan i/b Judicare Law Associates for the Petitioner.
Mr.S.D. Rayrikar, A.G.P. for the State – Respondent No.1.
Mr.Sachin S. Punde for the Respondent No.2.

CORAM : R.D. DHANUKA, J.
DATE : 13TH MARCH, 2018.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 18th June, 2016 passed by the learned Joint Charity Commissioner (I), Maharashtra State, Mumbai rejecting the application filed by the respondent no.2 under section 36 of the Maharashtra Public Trust Act, 1950 on the ground that the amount offered by the petitioner was below the market price which according to the Joint Charity Commissioner (I), was Rs.57,92,985/- when the impugned order was passed.

2. Learned counsel appearing for the petitioner as well as the learned counsel for the respondent no.2 jointly state that they have no objection if the impugned order dated 14th June, 2016 passed by

the Joint Charity Commissioner (I), is set aside and the learned Joint Charity Commissioner (I), to hold the public auction in respect of the property in question in respect of which the application for permission to sell under section 36 was made by the respondent no.2. It is also jointly requested that the application filed by the respondent no.2 i.e. Application No.J-4/96/2010 be restored to file before the Joint Charity Commissioner (I), and the petitioner be allowed to participate in the auction sale. Learned A.G.P. for the respondent no.1 also has no objection if this course is adopted by the Court.

3. The impugned order dated 14th June, 2016 is accordingly set aside. The Application No.J.-4/96/2010 is restored to file before the Joint Charity Commissioner (I), Maharashtra State, Mumbai. The learned Joint Charity Commissioner (I), Maharashtra State, Mumbai shall permit the sale of the property by public auction. The respondent no.2 would be at liberty to file a fresh valuation report in respect of the property as on date before the Joint Charity Commissioner (I), Maharashtra State, Mumbai for consideration. The reserve bid shall be decided by the Joint Charity Commissioner (I), Maharashtra State, Mumbai on the basis of such valuation report as may be submitted by the respondent no.2. The Joint Charity Commissioner (I), Maharashtra State, Mumbai also would be at liberty to obtain another valuation report for consideration before

fixing the reserve bid.

4. The petitioner would be at liberty to participate in the proposed public auction along with other bidders. The learned Joint Charity Commissioner (I), Maharashtra State, Mumbai shall sanction the sale in favour of the highest bidder and if the bid of such bidder is in compliance with the conditions of sale.

5. The learned Joint Charity Commissioner (I), Maharashtra State, Mumbai shall complete the process of auction sale within three months from the date of communication of this order. The respondent no.1 shall submit a valuation report within two weeks from today.

6. The petitioner as well as the respondent no.2 shall remain present before the Joint Charity Commissioner (I), Maharashtra State, Mumbai on 28th March, 2018 at 3:00 p.m to enable the Joint Charity Commissioner (I), Maharashtra State, Mumbai to fix further course of auction in compliance with this order.

7. The writ petition is disposed of in aforesaid terms. No order as to costs.

8. The parties as well as the learned Joint Charity Commissioner (I), Maharashtra State, Mumbai to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)