

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8501 OF 2017

SHRI. BRAMHANATH DEVASTHAN)...PETITIONER

V/s.

JOINT CHARITY COMMISSIONER)...RESPONDENT

Mr. V.A. Shastry, Advocate for the Petitioner.

Mr. Y.D. Patil, AGP for Respondent No.1.

CORAM : S.S. SHINDE, J.

DATE : 11th APRIL 2019

P.C. :

1. Rule. Rule is made returnable forthwith with the consent of the parties. Heard the learned counsel for both the sides.

2. Pursuant to the order passed by this Court on 22.03.2019, the Joint Charity Commissioner, Kolhapur deputed Shri. Ashif Shaikh, who is discharging duty as Inspector in Joint Charity Commissioner Office at Kolhapur to visit the Devasthan property of the petitioner trust and submit his report. Accordingly, Shri. Ashif Shaikh went to see the property of the petitioner Devasthan and after his visit, he prepared the report and submitted the same

to Respondent No.1. A copy of the said report has been placed on record by the learned AGP.

3. Upon careful perusal of the said report, it is abundantly clear that the land of the petitioner trust, which petitioner wishes to sell for betterment of the trust is not under cultivation for last 10 to 12 years, and also the petitioner trust is not receiving any income from the said land. The said report makes it abundantly clear that the petitioner trust is not getting any income from the said land. In that view of the matter, *prima facie* the petitioner's prayer to allow the petitioner to sell the said land, so as to discharge the financial liabilities for betterment of the petitioner trust, appears to be genuine.

4. In that view of the matter, the impugned orders are quashed and set aside. The petitioner is granted liberty to file the fresh application. In case, the petitioner files the fresh application with request to allow the petitioner trust to sell the said land. The Joint Charity Commissioner, Kolhapur is directed to consider the said application and take the final decision, however, keeping in view the report submitted by the inspector, and also the

observations made hereinabove in this order as expeditiously as possible and in any case within a period of eight weeks from filing such fresh application by the petitioner.

5. Writ Petition is partly allowed.
6. Rule made absolute on above terms.
7. Writ Petition stands disposed of accordingly.
8. All the concerned to act on an authenticated copy of this Order.

(S.S. SHINDE, J.)