

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12035 OF 2018

Sri Kanchi Mahaswami Trust	...	Petitioner
V/s.		
Joint Charity Commissioner-I & Anr.	...	Respondents

Mr. S. C. Naidu a/w. Mr. Anuj Jaiswal i/by Little & Co., for the
Petitioner.

Ms. M. S. Bane, AGP, for the Respondent Nos.1 & 2-State.

Ms. Nandini Menon, for the Respondent No.3.

CORAM : A. S. GADKARI, J.

DATE : 28th JUNE, 2019.

P.C.:-

1] By the present petition under Article 227 of the Constitution of India, the petitioner-Trust has impugned the Judgment and Order dated 29th May 2019 passed by the learned Joint Charity Commissioner-I, Maharashtra State, Mumbai, in Application No. 362/19, filed under Section 36(1)(a) of the Maharashtra Public Trust Act, 1950.

2] Heard Mr.S.C.Naidu, the learned counsel for the petitioner, Ms.Nandini Menon, the learned counsel for the Respondent No.3 and Ms.M.S.Bane, the learned AGP for the State. Perused the record annexed to the petition.

3] Shorn of unnecessary details, the facts giving rise to the present petition are that, in pursuance of Order dated 25th April 2019 passed by this Court in Writ Petition No.12035 of 2018, thereby directing the petitioner to file a fresh application for getting permission to sell property of the petitioner-Trust.

In view of the said directions, the petitioner-Trust filed the aforesaid Application No. 362/19 on 27th April 2019 before the Joint Charity Commissioner, Greater Mumbai Region, Mumbai, under section 36(1) of the Maharashtra Public Trust Act, 1950 (for short the 'said Act'), seeking permission to sell the property of the petitioner-Trust i.e. piece and parcel of land and residential block in 56 (109), Rama Naicken Street, Nungambakkam, Chennai-600 034, admeasuring approximately 1285 square feet.

4] The record indicates that, in response to the advertisement published by the petitioner-Trust in daily newspaper 'Times of India', the respondent no.3 had earlier offered consideration of Rs.1,00,00,000/- (Rupees One Crore) for the said property. The said offer was subsequently enhanced to Rs.1,10,00,000/- (Rupees One Crore Ten Lakhs) by offer letter dated 28th March 2019. It is to be noted here that, the valuer had earlier valued the property in question

at total market value of Rs.1,05,52,346/- and at the realizable market value of Rs.94,97,111/-.

5] As noted earlier, due to the rejection of the earlier application preferred by the petitioner-Trust under section 36 of the said Act and in furtherance of an Order dated 25th April, 2019 passed by this Court, the petitioner-Trust filed fresh application, seeking permission to sell the said property. By the impugned Order dated 29th May 2019 the respondent No.1 has again rejected the said application, predominantly on the ground that, the market value of landed property goes on increasing and as per the information gathered from the internet, the rate of landed property in the Egmore locality appears to be between Rs.12,835/- to Rs. 14,748/- per square feet. It is further observed that, in the absence of fresh valuation report, it would be difficult to accept that, the transaction will be in the best interest of the trust and that the proposed purchaser has enhanced his offer marginally than the valuation ascertained by the valuer prior to one year.

6] Mr. Naidu, the learned counsel for the petitioner submitted that, the findings recorded by the respondent No.1 has no legal basis, as it is not mentioned in the impugned Order that, as to

who has provided the information gathered from the internet to the concern Authority for arriving at conclusion that the value of the property per square feet in Egmore locality of Chennai is approximately between Rs.12,800/- to Rs.14,800/-. He submitted that, the petitioner-Trust has elaborately given reasons in clause (9) of the said application filed under section 36 of the said Act, for seeking permission to sell the property.

7] It is to be noted here that, the petitioner-Trust has categorically stated in its application that, most of the activities of the trust are at Mumbai. The property situated at Chennai is too small to be used for any activity of the Trust. It is not possible for the Trust to use its financial resources for maintaining the property, including repairs and maintenance, when it is not being used and cannot be used for the Trust activities. The plot has been lying idle since it came into the Trusts assets after amalgamation.

It is to be further noted here that, after perusing the record, this Court find substance in contention of the learned counsel for the petitioner, with respect to the findings recorded or observations made by the respondent No.1 about the market price of the plot of land at Egmore locality of Chennai.

8] Taking into consideration the above said facts and after perusing the record, this Court on earlier occasion i.e. on 3rd June 2019 had directed the petitioner-Trust to produce a fresh valuation report of the said property.

The petitioner-Trust has accordingly produced on record a valuation report dated 10th June 2019 prepared by Shri. P. V. Subramanian, Chartered Engineer & Registered Valuer having his establishment at Chennai. As per the said valuation report, the total market value of the property is approximately Rs.98,38,658/- as of 10th June 2019.

9] It appears from the record that, the market value of the said property has not much increased than from the last valuation report. As per the earlier valuation report the realizable market value was Rs.94,97,111/-. The respondent No.3 has offered a price of Rs.1,10,00,000/- for the said property. It is also to be noted here that, the petitioner has produced on record an extract from the Ready Reckoner provided by Joint-II Sub-Registrar, Thousand Light, Chennai, stating that price of land in Egmore Nungambakkam Taluka w.e.f. 09th June, 2017 is Rs.5,360/- per square feet. As noted earlier, the respondent No.3 was the only person who offered his bid in

pursuance of the public notice issued by the petitioner-Trust in Newspaper and no other person or entity has expressed its interest in the said property.

10] As noted earlier, the market value of the suit property has been valued by the Chartered Engineer & Registered Valuer to approximately Rs.98,38,658/- as on dated 10th June 2019 and the Respondent No.3 has offered a price of Rs.1,10,00,000/- in that behalf. It is thus clear that, the Respondent No.3 has offered higher price than what has been valued by the valuer in the latest valuation report.

11] In view thereof, the impugned Order dated 29th May 2019 is quashed and set aside.

The petitioner is permitted to sell its property mentioned herein above and more particularly mentioned in clause No.3 of Application No. 362/19 before the Joint Charity Commissioner, Greater Mumbai Region, Mumbai, to the respondent No.3 for an amount of Rs.1,10,00,000/- (Rupees One Crore Ten Lakhs) after complying with all the necessary legal formalities in that behalf.

12] Petition is allowed in the aforesaid terms.

(A.S. GADKARI, J.)