

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO. 2066 OF 2017**

Shivanjali Co-operative Housing Society LimitedPetitioner
vs
Shree Santpati Shivnarayan Gurudham
Trust And 12 Others ...Respondents

.....
Mr. Jamshed Ansari, for the Petitioner.

Ms. Sapana Rachure, for Respondent Nos. 9 to 11.

Mr. Manish Upadhye, AGP, for Respondent Nos. 12 and 13.

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CORAM : S.C. GUPTE, J.

DATED: 12 APRIL 2019

P.C.:

. Heard learned Counsel for the Petitioner and the Respondents and learned AGP for the State. This petition challenges an interim order passed by Joint Charity Commissioner in a proceeding filed under Section 41D of Maharashtra Public Trusts Act, 1950 ("Trusts Act"). The interim application of the Petitioner was for restraining Respondent Nos. 3 to 5 - trustees and the purchasers of a portion of the trust property, from creating further rights in it. The allegation of the Petitioner was that the transfer was made by the trustees in favour of the present purchasers in breach of Section 36 of the Trusts Act. The application was rejected by the Joint Charity Commissioner. It appears that the main proceeding filed under Section 41D is still pending before

the Joint Charity Commissioner. So far there has been no interim relief. It also appears that pending the proceeding, a new managing committee has come in place of the erstwhile managing committee of the Petitioner prosecuting the present matter. Learned Counsel for the Petitioner submits that the new committee will have to decide whether or in what manner to prosecute pending proceeding before the Deputy Charity Commissioner. If the new committee decides to pursue the matter, their only remedy is to now seek an expeditious disposal of the pending proceeding. This petition can, accordingly, be disposed of by directing the Joint Charity Commissioner to dispose of the pending proceeding under Section 41D as expeditiously as possible. It is ordered accordingly and the petition is disposed of. All rights and contentions of the parties on merits are kept open.

(S.C. GUPTE, J.)