

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.964 OF 2019

(BHIMRAO LAXMAN JADHAV & OTH...VS.. JOINT CHARITY COMMISSIONER, AMRAVATI.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri N.D.Khamborkar, Advocate for Petitioners.
Ms Tajwar Khan, A.G.P. for Respondent No.3.

CORAM : Z.A.HAQ, J.

DATED : FEBRUARY 07, 2019.

Heard.

By order dated 14th June 2005, the Joint Charity Commissioner granted sanction for sale of the land of the Public Trust. As per the sanction granted by the Joint Charity Commissioner, the petitioner No.5-Public Trust executed sale-deed of the land in favour of the petitioner No.4. The order passed by the Joint Charity Commissioner on 14th June 2005 was challenged before this Court in Writ Petition No. 2749 of 2006 which was allowed by the judgment given on 11th June 2012. The Letters Patent Appeal No. 279 of 2012 challenging the judgment passed in Writ Petition No.2749 of 2012 was dismissed on 30th July 2012. Miscellaneous Civil Application No.758 of 2012 seeking review of the judgment passed in Letters Patent Appeal was also dismissed on 26th June 2014. The petition for Special Leave to Appeal (C) No. 27019-27020 of 2014 was dismissed on 16th November 2015. Then the petitioners, prepared a Deed of Understanding, dated 18th July 2018 and on its basis moved the Joint Charity Commissioner for further orders. The petitioners prayed

before the Joint Charity Commissioner that the order passed by him on 14th June 2005 be confirmed and modified and the petitioner No.5-Public Trust be directed to execute sale-deed of 3.5 acres of southern side portion of the land. This application is decided by the impugned order. The learned Joint Charity Commissioner has observed that the matter will have to be considered afresh on merits and it cannot be disposed on the basis of the compromise/Deed of Understanding between the parties.

The contention of the petitioners that as the sale-deed is already executed after sanction was granted by the Joint Charity Commissioner by the order dated 14th June 2005, sale deed cannot be cancelled, is misconceived. This fact was brought to the notice of this Court when Writ Petition No. 2749 of 2006 came to be decided. Paragraph No.4 of the judgment given in Writ Petition No.2749 of 2006 shows that same submission was made on behalf of the public trust. Though the sale-deed executed by the petitioner No.5-Public Trust in favour of the petitioner No.4 is not cancelled in any proceedings, in my view, the effect of the judgment passed by this Court in Writ Petition No.2749 of 2006 cancelling the sanction granted for execution of the sale-deed is that the sale-deed is illegal. The judgment passed by this Court in Writ Petition No. 2749 of 2006 is maintained by Division Bench of this court and the petition for Special Leave to Appeal is also dismissed. Hence, it is not open to the petitioners to contend that the sale-deed which was executed after Joint Charity Commissioner granted sanction under Section 36 of the Act of 1950 still stands though order granting sanction is set aside and the sanction is revoked.

In my view, the learned Joint Charity Commissioner has rightly observed that the matter will have to be considered afresh on merits. There is no reason to interfere with the impugned order.

The writ petition is **dismissed**. No costs.

JUDGE

RRaut..