

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

907 WRIT PETITION NO.8447 OF 2020

**SHIVAJI TUKARAM JAGTAP
VERSUS
SHRI VITHAL SHIKSHAN PRASARAK MANDAL OMERGA**

Mr. M. P. Kale, Advocate h/f Mr. R. T. Deshmukh, Advocate for the petitioner

CORAM : N. J. JAMADAR, J.

DATE : 18-03-2021

ORAL ORDER:

. Heard learned counsel for the petitioner.

2. The challenge in this petition is to an order dated 11-02-2020 passed by the learned Joint Charity Commissioner, Latur on an application (Exh.26) preferred by the petitioner to implead him as an intervenor in the application preferred by the respondent No.1-Trust under Section 36 of the Maharashtra Public Trust Act, 1950 seeking permission of the Charity Commissioner to undertake the development of the school premises, carryout the construction and also make commercial use thereof to the extent permissible under Rules.

3. The substance of the application preferred by the petitioner was that the land in question was allotted to the

respondent No.1-Trust by CIDCO on a nominal rent to run a school. Respondent No.1-Trust has sought permission to make construction and exploit commercial potential of the premises. The said object is beyond the objects of the Trust. Hence, he be allowed to intervene in the said application.

4. The learned Charity Commissioner was persuaded to reject the application opining, interalia, that the applicant is not an interested person nor is he a member of the Trust. No material could be placed on record to show that the petitioner had a locus. The Charity Commissioner also viewed that the objection raised by the intervenor in the application can, however, be considered by said authority while finally deciding the application under Section 36 of the Act, 1950.

5. Learned counsel for the petitioner would urge that if the objections raised by the petitioner are worthy of consideration at the time of final decision on the application preferred by the respondent No.1, there is no justifiable reason to decline the prayer for intervention. The intervention of the petitioner, according to the learned counsel for the petitioner, would facilitate a just decision of the case.

6. I am not persuaded to accede to the submissions on behalf of the petitioner. Evidently, the petitioner is neither a trustee or Manager of respondent No.1. Nor the petitioner claims to be a

member of the respondent No.1-Trust. The learned Charity Commissioner has recorded a categorical finding that the petitioner is also not an interested person.

7. The respondent No.1-Trust intends to develop the premise which has been allotted by CIDCO for the purpose of school. Whether the respondent No.1 is entitled to permission, as sought, from the Charity Commissioner is a matter which can be examined and adjudicated upon by the learned Charity Commissioner in observance with the considerations which bear upon the said issue. Even, the objection raised by the petitioner can be given consideration to. However, this does not imply that the petitioner must be permitted to intervene in the proceeding.

8. The intervention of the petitioner, in the absence of any interest in the affairs of the trust, has the potential to impede disposal of the application. Thus, the learned Charity Commissioner was within his rights in declining the prayer to intervene. Hence, the petition does not deserve to be entertained.

9. It is clarified that the observations made herein above may not be construed as an expression of opinion on the merits of the claim of the respondent No.1. The Joint Charity Commissioner shall decide the said application under Section 36 of the Act, 1950 without being influenced by the aforesaid observations and in accordance with law.

(4)

wp8447.20

10. With the aforesaid clarification, the petition stands dismissed.

[N. J. JAMADAR, J.]

VishalK/wp8447.20