

Bhogale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.103 OF 2020

Commission of Ecumenical Mission and
Relations of United Presbyterian-Church
(COEMR) in USA, Kolhapur

.. Petitioner

vs.

State of Maharashtra & ors.

.. Respondents

Mr. A.S. Rao for the Petitioner.

Mr. S.D. Rayrikar, AGP for the State.

Mr. Prashant Kamble for Respondent No.3.

CORAM : M.S.KARNIK, J.

DATE : MARCH 9, 2021

P.C.:-

Heard learned counsel for the parties.

2. The Joint Charity Commissioner had initially granted permission in the year 2001 to sell the Trust land under Section 36 (1A) of the Maharashtra Public Trusts Act, 1950. The terms and conditions could not be adhered to for the reasons stated in the Petition. Considering the delay and the resultant increase in property prices, the Joint Charity Commissioner was of the opinion that allowing the application for extension of time is not warranted. The application for extension of time was rejected.

3. Pursuant to the order passed by this Court granting permission to Petitioner to add Respondent No.3 as a party Respondent, affidavit has been filed by the Respondent No.3. In paragraphs 3 and 4 it is stated thus :-

“3. I confirm and reaffirm the statement made by the Petitioner in para no.90 of the memo of petition that “settlement agreement (MOU) was executed between the Petitioner and the other parties on the terms that Sant Nirankari Mandal Trust shall pay price of the land fixed by the Government to the Petitioner as a nominee of Saurabh Patil Builders & Developers Pvt. Ltd.”

4. I say that the answering Respondent will abide by the said statement and shall make payment being the price of the land as fixed by the Government to the Petitioner as a nominee of the Saurabh Patil Builders & Developers Pvt. Ltd. I say that the payment to be made by the answering Respondent is over and above the other payments to be made by Saurabh Patil Builders & Developers Pvt. Ltd.”

4. Considering the affidavit and in the light of the stand taken by the Respondent No.3 which was not before the Joint Charity Commissioner when the impugned order came to be passed, in the interest of justice, as this aspect may have a bearing on the application for extension of time, the matter needs to be remitted back to the Joint Charity Commissioner, Kolhapur for a fresh consideration. In the light of this, the impugned order is set

aside. The Application for extension of time to be decided within a period of 10 weeks from 22.03.2021. The parties to appear before the Joint Charity Commissioner on 22.03.2021 along with the copy of this order and the affidavit filed on behalf of the Respondent No.3 in this Court. Learned counsel for the Respondent No.3 says that he will also appear before the Joint Charity Commissioner on 22.03.2021 along with necessary application and an affidavit. The application be considered on its own merits.

5. The Writ Petition is disposed of.

(M.S.KARNIK, J.)