

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 1240 OF 2021****IN****CIVIL WRIT PETITION NO. 12035 OF 2018**

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

Mr.S.C. Naidu a/w. Mr.Nirav Shah and Mr.Anuj Jaiswal i/b. Little & Co. for Applicant/Petitioner.

Ms.Manasi Bane, A.G.P for Respondent Nos.1 & 2 - State.

Mr.Akshay Shinde for Respondent No.3.

Ms.Nandini G. Menon for Respondent No.4.

CORAM : A.S. GADKARI, J.

DATE : 29th November 2021.

PC. :

1. This is an application for modification of Order dated 28th June 2019 passed in the present Petition.
2. Heard learned counsel for the respective parties. Perused record.
3. By the said Order dated 28th June 2019, this Court had permitted to sell the property of Petitioner-Trust to Respondent No.4-herein for a consideration of Rs.1,10,00,000/-. By a letter dated 20th November 2019 the Respondent No.4 had informed the Petitioner that, due to certain circumstances which were beyond his control, he was unable to complete the

said transaction of purchase of the suit property and expressed his regret in that behalf. Record further indicates that, the Respondent No.3 herein by his communication dated 13th April 2021 addressed to the Petitioner-Trust has given an offer of Rs.2,25,00,000/- for purchase of Trust property, specifically mentioned in para No.3 of Order dated 28th June 2019 and had also forwarded a cheque of Rs.75,00,000/- to show his bonafide in fulfilling the transaction.

Mr.Naidu, learned counsel for the Applicant-Original Petitioner submitted that, the said cheque has now been realized.

4. This Court therefore by its Order dated 16th June 2021 had directed the Respondent No.1 to submit its opinion/report in that behalf, i.e. the offer submitted by Respondent No.4, for purchase of the Trust property.

Respondent No.4 through the learned A.G.P. has forwarded its opinion/report dated 5th July 2021 to this Court. In para No.6 of the said report, the Joint Charity Commissioner-I, Maharashtra State, Mumbai has opined that, as the offer given by present Respondent No.3 appears to be good, fair, adequate and in the interest of Trust, as there is substantial increase of about Rs.1,15,00,000/- from the offer price from the previous intending purchaser.

5. Respondent No.3 Mr.Paranthaman Raju K. has also filed his Affidavit dated 3rd November 2021 and has undertaken to complete the

transaction of purchase of the Trust property from the Petitioner-Trust for a total consideration of Rs.2,25,00,000/-. It is stated therein that, the Respondent No.3 has deposited a cheque of Rs.75,00,000/- with the Petitioner-Trust, as earnest money to show his bonafide and willingness to purchase the Trust property. The Petitioner No.3 has also undertaken to complete with all the legal formalities, pay the sale consideration to the Petitioner in one installment and also to pay stamp duty and registration charges as may be applicable on the transaction for purchase of the Trust property. The undertakings mentioned in the said Affidavit dated 3rd November 2021 are accepted as undertakings given to this Court.

6. Advocate Mr.Akshay Shinde appearing for Respondent No.3, on instructions further submitted that, the Respondent No.3 has every intention to complete the transaction within a period of four weeks from today and the Respondent No.3 will not resile from the undertakings mentioned in his Affidavit dated 3rd November 2021.

7. As the Respondent No.3 has now given enhanced offer of Rs.1,15,00,000/-, than the offer which was earlier given by Respondent No.4, this Court is of the opinion that, there is no impediment in permitting the Respondent No.3 to purchase the Trust property from the Petitioner-Trust for a total consideration of Rs.2,25,00,000/-, after complying with all the necessary legal formalities in that behalf.

8. It is made clear that, if the Respondent No.3 fails to comply with the present transaction within a period of six weeks from today, the amount of Rs.75,00,000/- deposited by him with the Petitioner-Trust as earnest money shall stand forfeited without further reference to this Court.

9. Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]

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