

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

WRIT PETITION NO.2660 OF 2018

Shri Balaji Devasthan Regd Trust,
Regn No.A-54, Amravati through
its trustee Dharmendra Radheshyamji
Loya, aged 52 years, resident of
Talegaon (Dashashar), Tashil Dhamangaon
(Rly), District Amravati.

...PETITIONER

...V E R S U S...

Joint Charity Commissioner,
Amravati Region, Amravati.

...RESPONDENT

Shri J.J. Chandurkar, Advocate for petitioner.
Shri A.M. Kadukar, A.G.P. for respondent.

CORAM:- V. M. DESHPANDE, J.
DATED :- 2nd FEBRUARY, 2021.

ORAL JUDGMENT

Rule. Rule is made returnable forthwith. Heard finally
by consent of the parties.

(2) Heard Shri J.J. Chandurkar, learned counsel for the
petitioner and Shri A.M. Kadukar, learned Assistant Government
Pleader for the sole respondent.

(3) By filing this writ petition the petitioner is challenging
the judgment and order passed by the respondent No.1-Joint
Charity Commissioner, Amravati dated 15.12.2017 in Application

No.30 of 2014 whereby the Joint Charity Commissioner rejected the application filed on behalf of the petitioner under Section 36(1)(a) of the Maharashtra Public Trusts Act.

(4) The petitioner is Shri Balaji Devasthan Trust and it is a registered public trust having registration No.A-54 of Amravati. The petitioner-Trust own various lands including Gat No.73 area 11 Hector 63 Are and land Gat No.85 area 8 Hector 65 Are at Kotha (Fattepur), Taluka Babhulgaon, District Yavatmal. Since lands are situated at a far place and it was inconvenient for the trust to cultivate the same and in order to rule out the possibility of encroachment, the trust on 02.02.2014 passed a resolution giving authorization to one Dharmendra Radheshyamji Loya, one of the trustees, to approach before the Joint Charity Commissioner for obtaining the permission for disposing of the trust property.

(5) Accordingly, Application No.30 of 2014 was moved. The impugned order shows that after filing of the application, a public notice was issued in two daily newspapers as well as affixing the same on temple premises and on the notice board of Gram Panchayat. Inspection Report of Public Trust Registration Office, Amravati was also called. The impugned order shows that inspite of the public notice, nobody raised objection to the application.

(6) The impugned order shows that since the applicant and his counsel did not remain present before the Joint Charity Commissioner, the Joint Charity Commissioner dismissed the application.

(7) The learned counsel for the petitioner submitted that the authority ought not to have dismissed the application on its own merit and ought to have dismissed in default.

(8) Perusal of the impugned order shows that the Joint Charity Commissioner has decided the application on its own merit.

(9) The learned counsel for the petitioner submitted that during the course of hearing though it is not stated in the writ petition that due to unavoidable circumstances the counsel for the petitioner and the petitioner could not attend the proceedings.

(10) Since the property is belonging to the trust and intention to dispose of the property was not objected by anybody, in my view, an opportunity should be given to the petitioner-Trust to submit its case before the Joint Charity Commissioner afresh. In that view of the matter, the writ petition is allowed. The judgment and order dated 15.12.2017 passed by the Joint Charity

Commissioner, Region Amravati, Amravati in Application No.30 of 2014 is hereby quashed and set aside. The Application No.30 of 2014 filed by the petitioner-Trust under Section 36(1)(a) of the Maharashtra Public Trusts Act stands restored and the matter is remanded back to the Joint Charity Commissioner, Amravati Region, Amravati.

(11) The petitioner is directed to appear before the Joint Charity Commissioner, Amravati on 15.02.2021. The Joint Charity Commissioner is directed to decide the Application No.30 of 2014 afresh by giving opportunity of hearing within a period of two months from 15.02.2021.

Rule is made absolute in above terms. No order as to costs.

JUDGE

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