

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.573 OF 2022

Harabsingh Dilipsingh Bhela & Anr.] ... Petitioners

Vs.

Raghunathji Mandir Trust Through]
Trustees & Ors.] ... Respondents

...

Mr. Nikhil M. Pujari for the petitioners.

...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 19TH JANUARY, 2022.

P.C. :-

1. By this petition, the petitioners seek to challenge the judgment dated 17/11/2021, delivered by the learned Joint Charity Commissioner, Nashik Region, Nashik, by which, Application No.15 of 2009 filed by the Trust, seeking permission to sell 20 Ares land, the property bearing Survey No.292/1B/2, admeasuring 4 Hectares 67.04 Ares, has been rejected. Only 20 Ares are sought to be purchased by the petitioners.

2. I have considered the strenuous submissions of the learned counsel for the petitioners. The contention is that the petitioners have offered Rs.12,75,000/- during a bid that took place pursuant to the advertisement published by the Trust in 'Dainik Uladhal' dated 14/12/1993 and 'Dainik Rambhoomi' dated 12/12/1993. Initially, the petitioners deposited an amount of Rs.6,40,000/-, which is about half of the amount. However, thereafter, no steps were taken by either side and, it was only on 14/06/2017 that these petitioners preferred Regular Civil Suit No.323 of 2017 before the learned Civil Judge, Senior Division, Nashik, for permanent injunction. Same is pending.

3. The learned Joint Charity Commissioner, took up the pending Application No.15 of 2009 for hearing, and came to a conclusion by framing the following issues:

<u>S.Nos.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether it is proved that, the trust is under compelling necessity to sell the property?	No.
2.	Whether the proposed sale is in the interest of the trust?	No.
3.	Whether the applicant trust has received the reasonable price of the property under sell?	No.
4.	Whether the applicants are entitled for previous sanction to sell the trust property?	No.
5.	What order?	As per final order.

4. As such, the authority concluded that the Trust could not establish compelling reasons to sell the property and that, the proposed sale was not in the interest of the Trust. The authority also came to the conclusion that the Government valuation of the portion of the land, sought to be sold, is Rs.2,70,10,000/- and, therefore, the Trustees were attempting to sell the said 20 Ares, for a song. By the impugned order dated 17/11/2021, the learned Joint Charity Commissioner has held in paragraph Nos.12, 13 and the operative part of the order, which are as under:

“12. Admittedly, paper publication for sale of property was made in the year 1993. Accordingly, Shri. Harbsing Dilipsing Bhela entered in to agreement with the trust for purchase of property Rs. 12,75,000/- and he paid Rs. 6,40,000/- to the trust as a part payment of the consideration. Admittedly, this application is preferred in the year 2009. Since, then it is pending. Admittedly, since then there is a tremendous hike in the valuation of the plot and the government valuation produced on record shows the valuation of the plot to be sold is Rs. 2,70,10,000/-. Therefore, as on today, the valuation of the property is more than Rs. 2,70,00,000/-. Hence, it has to be sold atleast for that price and not below than the price.

13. Today Shri. Harbsing Dilipsing Bhela who is the proposed purchaser has filed on record the say. In which he has mentioned clearly i.e. in para 11 that, he is ready to purchase the plot of Rs. 50,00,000/- If today's government valuation of Rs. 2,70,00,000/- is considered then the proposal of Rs. 50,00,000/- as a purchase price given by Shri.

Harbsing Dilipsing Bhela is too much at lowest price. Ld. Adv. Khutade and Ld. Adv. Shri. Shirsath have drawn my attention to point that, in the year 1993 agreement was executed between trust and Shri. Harbsing Dilipsing Bhela. No doubt, since the year 2009 the application is pending for no fault of trust and Shri. Harbsing Dilipsing Bhela. But at same time a vital aspect cannot be kept aside that since the year 1993 till the year 2009, the trust and Shri. Harbsing Dilipsing Bhela was also negligent on their part by causing delay of 16 years. All these aspects shows that some of the persons who are having nexus have objected the said transaction. Under such circumstances, I am of view that considering the hike in the price and proposed purchase price is different and lower. It reveals from rival submissions that, there is a dispute about trusteeship amongst the trustees. The third party Shri. Ganeriwala have objected for sale of the property. Third party Shri Ganeriwala are claiming themselves as trustees as per the scheme framed by Hon'ble High Court. Therefore, the transaction is not in the interest of benefit of the trust. Hence, I answer all the points in the negative. In result, I pass following order :

ORDER

- 1. Application No. 15/2009 stands rejected.*
- 2. If in future the trust again publishes such type of notice for sale of property in that bid the Shri. Harbsing Dilipsing Bhela is at liberty to participate.*
- 3. Entry be taken in Schedule-I of the Register of Public Trust.*
- 4. Proceeding is closed.”*

5. It is well settled that the Trust has to establish compelling circumstances for selling a Trust property and it is the responsibility of the competent authority, which is empowered to accord its permission for such sale, to assess the various aspects involved in the case, including that the bids or offers for the sale, should be invited by publishing the advertisement, calling for such offers, in such newspapers which can be said to be largely circulated in the area in which the property is situated.

6. The Trust is known by name “Shri Raghunathji Mandir Trust, Panchavati, Nashik”. The 20 Ares land, sought to be sold, is adjacent to the Mumbai-Agra Road. The details of the property to be sold are set out in the judgment. The advertisement was published by the Trust in such two newspapers, which are unheard of viz. Dainik Uladhal and Dainik Rambhoomi. There are several newspapers in Marathi language, published from Nashik, which have a wide circulation, like Dainik Lokmat, Dainik Sakal, Dainik Maharashtra Times, Dainik Lok Satta, etc.

7. Apparently, a mischief was played by the then Trustees of getting the advertisement published in relatively unknown newspapers, which attracted only four bidders, including the petitioners. This was a design to sell the land, for a paltry amount. It is on account of the judicious approach of the learned Joint Charity Commissioner, Nashik Region, Nashik, that he has

considered all the aspects and has held that in the event, the Trust establishes a reason to sell its property and publishes a notice for sale, the present petitioners, who had earlier tendered their bid for the said property, would be at liberty to participate in the said bidding.

8. In view of the above, I do not find that the impugned order could be termed as perverse or erroneous. However, before parting with this order, I deem it appropriate to record that the Trust will have to publish the advertisement, strictly as required by law in two widely circulated newspapers in the Nashik Region, and an advertisement being published in unknown newspapers or newspapers having very less circulation like Dainik Uladhal or Dainik Rambhoomi, etc. shall not be considered as proper publication.

9. The petition is dismissed.

[RAVINDRA V. GHUGE, J.]