

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3336 OF 2022**

Jeevraksha Animal Welfare Trust through Its ...Petitioner
Trustee Manoj J Oswal

Versus

Union of India through The Ministry of Defence ...Respondents
& Ors

Mr Nakul Jain, *with Ashish Verma, for the Petitioner.*

Mr DP Singh, *for Respondent No. 1-Union of India.*

Dr GR Sharma, *with Gaurav Sharma & Gulab Yadav, for Respondent
No. 3, Pune Cantonment Board.*

Ms Pranali Sawant, *with Noopur M, for Respondent No. 4.*

**CORAM G.S. Patel &
 Madhav J. Jamdar, JJ.**

DATED: 25th March 2022

PC:-

SHEPHALI
SANJAY
MORMARE

Digitally signed by
SHEPHALI
SANJAY
MORMARE
Date: 2022.03.28
18:32:16 +0530

1. The Petition is filed by the Jeevraksha Animal Welfare Trust and one Manoj J Oswal. For the longest time Oswal and his trust have been trying to claim rights and resisting being removed from a very old bungalow at 4-A, Queen's Garden, Pune Cantonment Board on GLR Survey No. 29-A. This is a sizeable estate of 3.30 acres classified as B-3 Defence land. It is owned by the Government of India through the Ministry of Defence. The property has gained some notoriety in this Court. It was leased to one Claude-Lila Parulekar as her residence. There were a large number of litigations

involving Ms Parulekar and the corporate entity known as Sakal Papers over the last 30 or 40 years. Ms Parulekar died on 13th September 2016.

2. During her lifetime Ms Parulekar is said to have sheltered a very large number of dogs (and possibly other animals). Oswal claims that he and his trust are looking after Ms Parulekar's dogs and sheltered animals at the Queen's Garden bungalow premises and should not be removed from there.

3. That Oswal claims rights in the property cannot seriously be disputed. In fact, he invokes a Will said to have been made by Ms Parulekar on 1st May 2010, a document with her thumb impression and where Ms Parulekar is said to have purportedly bequeathed her leasehold interest as lessee in favour Oswal's trust, saying that this was her own trust. Contested probate proceedings are pending.

4. The Pune Cantonment Board is represented by Mr Singh and Dr Sharma and whose vakalatnama or vakalatnamas will be filed in the course of a week. The Pune Cantonment Board stoutly resists any and all attempts by the Petitioners to claim any sort of rights to the property. There is a Affidavit in Reply filed in some haste. Even so, it contains a compendious set of annexures of various orders passed previously including by this Division Bench. The record *prima facie* indicates that Oswal filed every conceivable proceeding from Writ Petitions to criminal proceedings and sought reliefs against Pune Cantonment Board, against Ms Parulekar's estate trustees and so on, all directed toward one purpose, i.e. a

perpetuation of his claims over the property in question. In Court after Court he has failed and not obtained any order. In every single one of these proceedings, Oswal and his trust have used these shelter animals as an excuse or a lever to gain an advantage over vastly valuable immovable property in the heart of Pune's defence cantonment area, not very far from the Pune Cantonment Board offices. There are orders of previous Division Benches of this Court which have in terms held against Oswal, who filed many applications even during Ms Parulekar's life time. Indeed Oswal once sought to be appointed as Ms Parulekar's guardian *ad litem* and next friend. This was rejected by the Civil Judge Senior Division and that rejection was upheld by this Court.

5. On 17th January 2014, this Court formulated a trust which then had Justice JA Patil, a Retired Judge of this Court and Dr Mohan Agashe the well-known physician and theatre personality as members of the trust. This trust is the present Respondent No. 4, the Lila Parulekar Welfare Trust. It is thus clear that it is Respondent No. 4 that is the only welfare trust that is recognised in the eyes of the law inter alia in regard to the affairs of the property at Pune. Ms Pranali Sawant Advocate has appeared before us. She is the one of the trustees. She appears in her capacity as a trustee in person. We have permitted this.

6. The immediate cause of this Petition is a public notice apparently dated 9th February 2022. A copy is at page 128. Oswal says that this was issued by 4th Respondent, the Lila Parulekar Trust. Ms Sawant states that the Lila Parulker Welfare Trust did nothing of the kind. It has not issued any such notice at all, let alone

any public notice. The document annexed at Exhibit-H at page 128 is a printed document prepared on a computer. It has no signature. Ms Sawant maintains that this document is entirely fabricated, got up and forged. Anybody with even the rudimentary knowledge of word processing could have generated such a document.

7. Our attention is drawn to a photograph at page 131 showing the gate of the premises and a copy of this notice placed on it. From what we can make out, the notice said to have been placed on the gate is an exact replica of Exhibit-H at page 128. It also does not have a signature. It is also a typed or printed document.

8. To our mind, the dead give away is that this notice allegedly of 9th February 2022 refers in paragraph 2 to an order dated 16th November 2016, six years ago in a Writ Petition No. 3931 of 2012 and now demands compliance with that order. Then in paragraph 4 it says that 145 dogs, 30 birds and 20 cattle are being shifted to another (unnamed) organization. It then asks anyone who has any claim on the animals to make an application to support the claim within seven days and then says that trust will not be responsible for the animals after the expiry of the period.

9. Oswal comes rushing to this Court and seeks production and priority listing on the basis that these animals will be mistreated by the Pune Cantonment Board and that other than Oswal there is nobody to look after them.

10. We ask Ms Sawant to give instructions to her Advocate on record. She did. She sent an email this afternoon to Ms Noopur M with a copy to Dr Sharma. Ms Sawant waives privilege and we take the printout on the file. It is marked "X" for identification with today's date. In this, Ms Sawant points out that Lila Parulekar Welfare Trust framed by this Court employs one veterinary doctor, Dr Deepak Devde with 13 years' experience, a trained live stock supervisor and four workers to feed the dogs and do other work. There are no sheltered birds. There is one buffalo. There are no 20 head of cattle. There are 107 dogs. All of them get their annual ARV or anti-Rabies vaccinations. They are de-wormed every three months and administered antiparasitic treatment quarterly as well. They are fed dog food with chicken and rice twice a day, cleaned and watered twice daily and bathed weekly especially for any skin issues. All these dogs are vaccinated and being taken care of at the Queen's Garden premises by the Lila Parulekar Welfare Trust. The Pune Cantonment Board is presently not interfering with the services provided by the Lila Parulekar Welfare Trust. On the contrary, the Pune Cantonment Board, the Defence Estates Officer or DEO, the veterinary staff of the Maharashtra Government and the Lila Parulekar Welfare Trust work in coordination and tandem to look after these animals.

11. We do not think it is necessary in light of this to any of this rechecked. There is no manner of doubt that any of these entities, i.e. Pune Cantonment Board, The Lila Parulekar Trust or the Ministry of Defence will approach this Court if necessary for further directions whenever required.

12. This does not mean that we recognise or acknowledge any rights vesting in the Petitioners, i.e. Oswal or the Jeevraksha Animal Welfare Trust. Indeed, on any reasonable reading of record before us the only conclusions to be drawn are these. *First*, that the Petitioners have shown no rights that accrue in their favour let alone any enforceable legal or constitutional rights. They are unable to show the violation of any rights by an instrumentality of the state. If the assault is on the some alleged 9th February 2022 notice by the 4th Respondent Lila Parulekar Welfare Trust, then that is not an instrumentality of the state amenable to our writ jurisdiction. *Second*, there are seriously disputed questions of fact. *Third*, we are compelled to hold that the entire Petition appears to us to be nothing but a completely mala fide attempt to abuse the process of this Court on a deliberately misstated basis.

13. The Petition is rejected.

14. We believe this is an appropriate case for the award of costs. These costs are to be paid by the Petitioners to the Lila Parulekar Welfare Trust not to the Pune Cantonment Board and we quantify the costs in the amount of Rs. 7.5 lakhs. These costs are to be paid within ten days from today. If not paid, they are recoverable as an executable order of this Court.

15. The interim order that we had granted till service was complete stands vacated forthwith.

(Madhav J. Jamdar, J)

(G. S. Patel, J)