

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9087 OF 2021

Gaud Saraswat Brahman Seva Mandal
through its Authorised Signatory
Amit Dinesh Pai

...Petitioner

V/s.

State of Maharashtra and Ors.

...Respondents

NILAM
SANTOSH
KAMBLE

Digitally signed
by NILAM
SANTOSH
KAMBLE
Date: 2022.10.17
18:15:02 +0530

Mr.J.S. Kini a/w Mr.Arun J. Kini & Ms.Sapna S. Krishnappa, for
the Petitioner

Ms.V.S. Nimbalkar, AGP for Respondent No.3-State.

Mr.Sandesh Deshpande for Respondent No.4.

CORAM : C.V. BHADANG, J.

DATE : 17 OCTOBER 2022

ORDER :

. The challenge in this Petition is to the order dated 29
January 2021 passed by Respondent No.3-Joint Charity
Commissioner refusing to grant permission for alienation under
Section 36 of the Maharashtra Public Trusts Act, 1950.

2. This Petition is heard finally by consent of parties.

3. I have heard the learned counsel for the parties.
Perused record.

4. With the assistance of the learned counsel for the parties, I have gone through the record.

5. The Petitioner and Respondent No.4 are seeking permission for exchange of their lands. The material contention on behalf of the Petitioner as well as Respondent No.4 is that the Area/Valuation of both the lands are identical and for the reasons set out in the Application the permission as sought ought to have been granted.

6. The learned Joint Charity Commissioner has framed a solitary point and has answered it in negative, *inter alia* on the ground that the appointment of the trustees is not approved by appropriate authority and there are two sets of members claiming to be the reporting trustees, which according to the learned Joint Charity Commissioner shows that the change reports are contested. The learned Joint Charity Commissioner has also noticed that various change reports are pending as set out in the impugned order.

7. The learned counsel for the Petitioner has pointed out that none of the change reports are contested and merely because no formal orders are passed in the change reports, the Application seeking permission could not have been rejected.

8. The learned counsel has referred to the Ready Reckoner Rates, in order to submit that the valuation of the two lands is also similar, if not identical.

9. I have considered the submissions made. It can be seen that the Ready Reckoner Rates are basically for determination of the Stamp Duty payable under the Maharashtra Stamp Act. The Valuation/Market Price of the land would depend upon several factors. Faced with this the learned counsel for the Petitioner had sought time to produce the Valuation Report by an authorized valuer. Today, the Valuation Reports dated 13 October 2022 by Mr.Vinodrai B. Kapadia, Architect and Valuer and Consultant in respect of both the lands are produced on record. They are marked 'X' and 'Y' for identification.

10. In my considered view, it would be appropriate for the learned Joint Charity Commissioner, to consider the Application for grant of permission afresh, in the light of the Valuation Reports now placed on record and any other material which the parties may choose to produce.

11. Thus the following order is passed:-

ORDER

(i) The Petition is partly allowed.

(ii) The impugned order dated 29 January 2021 is hereby set aside.

(iii) Application No.20 of 2020 is restored back to the file of the learned Joint Charity Commissioner, Mumbai for disposal according to law.

(iv) The parties to appear before the learned Joint Charity Commissioner on 7 November 2022.

(v) The Petitioner and the Respondent No.4 will be at liberty to produce the Valuation Reports and any other documents on which they seek to place reliance, before Joint Charity Commissioner.

(vi) The Joint Charity Commissioner shall ascertain from the Office of the Assistant Charity Commissioner, if there are any objections by any of the Trustees to the change reports which are pending.

(vii) The Joint Charity Commissioner shall proceed to hear and decide the Application as expeditiously as possible and in any event within a period of six weeks from the date of the appearance of the parties.

(viii) The Joint Charity Commissioner in deciding the Application shall not be influenced by the observations and findings in the impugned order.

The Petition is disposed of in the aforesaid terms.

C.V. BHADANG, J.