

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

WRIT PETITION NO.1162/2020

Nizdham Ashram Mudana, Tq. Mahagaon, Dist. Yavatmal Through its Trustee
and another
...Versus...
Laxmikant Panditrao Jadhav and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri S.D. Abhyankar, Advocate for petitioners
Shri R.S. Kurekar, Advocate for respondent no.1
Shri N.R. Patil, A.G.P. for respondent no.2
Shri P.V. Dandwate, Advocate for respondent no.3

CORAM : AVINASH G. GHAROTE, J.

DATE : 17/10/2022

1. The petition questions the judgment dated 05/11/2019 passed by the Joint Charity Commissioner Amravati, whereby the permission to exchange 0.43 R land of Survey No.11 owned by the petitioner, with 0.43 R land of Survey no.1 owned by the adjacent owner to the east side, has been rejected.

2. Shri Abhyankar, learned counsel for the petitioners submits that since the land of Survey no.11 was bifurcated into two parts by the National Highway No.361, it has become difficult for the petitioners to ensure the passage of the students, from one piece of land to the other, as a result of which, the aforesaid situation of exchange has been brought

about. He submits that the impugned judgment does not consider the practical difficulty and the fact that the respondent is not being put to any loss on account of the said exchange.

3. Shri Patil, learned Assistant Government Pleader for the respondent no.2 supports the impugned order.

4. I have perused the plan at Annexure-C (pg.25), which indicates the bifurcation of the land of Survey no.11 into two parts and the comparative location of land of Survey no.1, which is adjacent to the land of Survey no.11. Since the land of Survey no.11 stands bifurcated into two parts, there is no reason why as a matter of convenience to the students, the petitioners cannot be permitted to exchange equal amount of land for Survey no.1, which is immediately adjacent to the school building of the petitioner - Trust so that it can be put to better use of the students. The impugned judgment is therefore quashed and set aside and the application under Section 36 (1) (a) of the Maharashtra Public Trusts Act is hereby allowed. The writ petition is accordingly allowed. No order as to costs.

(AVINASH G. GHAROTE, J.)