

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

Writ Petition No.8072 of 2017

Atulkumar Rajendrakumar Malani & others

vs.

The Joint Charity Commissioner, Amravati

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

Court's or Judge's Orders

Mr. U.J. Deshpande, Advocate for the Petitioners.
Mr. K.L. Dharmadhikari, A.G.P. for the Respondent.

CORAM : MANISH PITALE, J.
DATE : 5th APRIL, 2022.

By this writ petition, the trustees of Shree Ramchandra Sansthan, Panaj, Taluka Akot, District Akola, are before this Court to challenge order dated 08/03/2017, passed by the Joint Charity Commissioner, Amravati, whereby an application filed on behalf of the said trust by one of the trustees under Section 36(1)(a) of the Maharashtra Public Trusts Act, 1950 was rejected insofar as the permission to sale land in Gat No.170 was concerned.

02] Apart from the trustee, who had moved the said application before the Joint Charity Commissioner, by an order of this Court, dated 01/10/2018, the other trustees were also added as petitioners Nos.2 to 5.

03] Mr. Deshpande, learned Counsel appearing for the petitioners submitted that the reasoning given by the Joint Charity Commissioner in the impugned order is unsustainable for the reason that the nature of enquiry

contemplated in such cases was not conducted by the said authority and the application moved on behalf of the trust for permission to sell land in Gat No.170 was rejected on irrelevant considerations. Attention of this Court was invited to the judgment of this Court in the case of Radhaji Shripat Patil (Bhoknal) vs. State of Maharashtra & others – 2011(6) Mh.L.J. 615.

04] It is further submitted that proper procedure was followed by inviting offers and although the Inspector, who conducted the enquiry, had indicated that the said piece of land could fetch about Rs.9.00 lakhs to Rs.10.00 lakhs, the highest bidder had offered Rs.20.00 lakhs for the said piece of land. It was submitted that the trust had already resolved to utilize the aforesaid amount by depositing the same in Government Securities or fixed deposits and to use only the interest amount for the object of the trust. On this basis, it was submitted that the impugned order deserved to be set aside.

05] Mr. Dharmadhikari, learned A.G.P. has appeared on behalf of the respondent-authority.

06] A perusal of the application moved on behalf of the petitioners before the Joint Charity Commissioner would show that a specific statement has made in the context of a resolution passed on 24/01/2015 by the trust that upon selling the aforesaid land in Gat No.170, the proceeds would be utilized by depositing the same either in fixed deposits or in Government Securities and that only the interest earned

upon such amount shall be used to satisfy the object of the trust. In the application, it is also stated that the land in question is no longer suitable for agricultural operations and that, therefore, it had become necessary to sell the same in order to generate funds for achieving the object of the trust.

07] A perusal of the report submitted by the Inspector in the context of the aforesaid permission sought by the petitioners would show that the land in Gat No.170 is located near the town and since the agricultural fields in the neighbourhood have already been converted and plots have been demarcated, a price of around Rs.9.00 lakhs to Rs.10.00 lakhs could be expected for the said land. In this context, a perusal of the application filed by the petitioners, while seeking permission from the Joint Charity Commissioner for sale of the aforesaid land, would show that offers much higher than the said amount were received and the highest bidder had offered Rs.20.00 lakhs for the said piece of land.

08] It is in this background that the Joint Charity Commissioner was required to consider the aforesaid application moved by the petitioners.

09] A perusal of the impugned order shows that there is no discussion on the question of genuineness of need of the trust while seeking permission for disposing of the land. There is also no discussion on the offers received and whether they reflect true market value of the land in question.

10] Instead, the Joint Charity Commissioner has rejected the application only on the ground that the trust has already sold another piece of land and the income generated therefrom would be sufficient to maintain a temple of the trust and further that there is commercial potential of land in Gat No.170, which is touching locality of the village and, hence, the trust cannot be permitted to sell the land in question. The aforesaid reasoning of the Joint Charity Commissioner demonstrates an erroneous approach, inasmuch as the aspects on which the enquiry was required to be conducted, was not undertaken. In this regard, the learned Counsel for the petitioners is justified in relying upon the judgment of this Court in the case of Radhaji Patil (*supra*), wherein the aforesaid requirements, while considering such an application, have been reiterated.

11] In view of the above, it is found that the impugned order is unsustainable. It deserves to be set aside. But, this Court cannot be oblivious of the fact that the impugned order was passed as far back as on 08/03/2017 and that even if the permission is to be granted and the application moved by the petitioners under Section 36(1)(a) of the aforesaid Act is to be favourably considered, the process for disposing of the land in Gat No.170 by inviting offers as per the procedure, would have to be undertaken afresh. The persons, who had put up offers when the said land was proposed to be sold by the petitioners during the period from 2015 to 2017, can also be permitted to participate, in the interest of justice.

12] In view of the above, the writ petition is allowed. The impugned judgment and order dated 08/03/2017 passed by the Joint Charity Commissioner is quashed and set aside. The application filed by the petitioners under Section 36(1)(a) of the Act is allowed. Consequently, the petitioners will have to follow the mandated procedure by inviting offers for sale of land in Gat No.170. The bidders, who had participated in the process earlier, would be at liberty to participate in the process now proposed to be undertaken. It is directed that the process contemplated in pursuance of the aforesaid application being allowed, will have to be completed within a period of eight weeks from today.

13] The writ petition stands disposed of.

JUDGE

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