

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6123 OF 2023

**SHREE DATTA ASHRAM SANSTHAN JALNA THROUGH RAJESH
OMPRAKASH AGRAWAL**

VERSUS

**THE STATE OF MAHARASHTRA THROUGH CHARITY COMMISSIONER
AND ANOTHER**

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Advocate for Petitioner : Mr. Girish K. Naik Thigle
AGP for Respondents – State : Mr. S.R. Yadav Lonikar

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 04th JULY, 2023

PER COURT :

1. Petitioner by this petition filed under Article 227 of the Constitution of India challenges order dated 06/06/2023, passed by learned Joint Charity Commissioner, Aurangabad Region, Aurangabad, in Application No.12/2023, thereby rejecting permission sought by the petitioner to sell the Trust property.
2. During the course of hearing of present petition, this Court by order dated 16/06/2023 directed learned Joint Charity Commissioner to visit the premise of petitioner and submit fact finding report of the existing facility as well as area proposed to be sold by the petitioner. Learned Joint Charity Commissioner visited the site and has filed report dated 19/06/2023.
3. Heard learned advocate for petitioner and learned

Assistant Government Pleader for respondents State. Perused the writ petition memo, annexures thereto and the impugned order.

4. Considering the report submitted by learned Joint Charity Commissioner, this Court is of the considered view that instead of going into the merits of the matter, it would be desirable in the interest of justice to remand the matter back for fresh consideration to learned Joint Charity Commissioner.

5. Learned advocate for petitioner submits that estimates given by the Architect for improvement of the site proposed to be sold, were not with the petitioner at the time of hearing of the matter before learned Joint Charity Commissioner.

6. Since learned Joint Charity Commissioner has visited the site and has prepared a report, it would help him in deciding the matter on merit. While deciding the matter, he shall take into consideration the estimates, if any, submitted by the petitioner.

7. Hence, the following order:-

ORDER

- (I) Writ Petition is allowed.
- (II) Impugned order order dated 06/06/2023, passed by learned Joint Charity Commissioner, Aurangabad Region, Aurangabad, in Application No.12/2023, is quashed and set aside.

- (III) The matter is remitted back to the learned Joint Charity Commissioner who shall decide it afresh on merits, in accordance with law.
- (IV) The matter shall be decided within a period of one month from the date of receipt of writ of this Order.

(NITIN B. SURYAWANSHI, J.)