

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**14 CIVIL APPLICATION NO.6580 OF 2022
IN
WRIT PETITION NO.4252 OF 1994**

SWATANTRA SENANI LALA LAJPATRAI SAHAKARI GRUHA
NIRMAN SANSTHA MARYADIT HARSUL THROUGH ITS
SECRETARY
VERSUS
SHRI RAM MANDIR (MATH) BALAJI TRUST JASWANTPURA
THROUGH ITS PRESIDENT AND OTHERS

Mr. Anand P. Bhandari, Advocate for the Applicant.
Mr. S.S. Bora, Advocate for Respondent No.1.
Mr. S.N. Moranpalle, AGP for the Respondent-State.

**CORAM : SHARMILA U. DESHMUKH, J.
DATED : FEBRUARY 09, 2023.**

PER COURT :

1. Heard.
2. Civil Application has been preferred in disposed of writ petition, seeking the following reliefs:

“A. This Civil Application may kindly be allowed.

B. By passing appropriate order or direction, it be held that, Order dated 30.01.2020 passed by this Hon’ble Court in Writ Petition No.4252/1994 with four connected Writ Petitions will not bind the interest of the applicant.

C. The respondent No.1 be directed to execute Sale Deed of the land permitted to be transferred in favour of the applicant as per the Order dated 20.10.1994 passed by the learned Joint Charity Commissioner, Aurangabad in Inquiry Application No.5/1993.

D. Any other just and equitable relief for which the Applicant is found entitled may kindly be passed.”

3. The subject matter of the writ petition was order dated 20.10.1994 passed by the Joint Charity Commissioner granting sanction to the sale of the trust property under Section 36 of the Maharashtra Public Trusts Act, 1950 (for short, “the Trusts Act”), sanction being granted for sale of the property at the rate of Rs.10,00,000/- per acre. The facts of the case are that, the property bearing survey nos.124 and 125 belonging to the respondent No.1-Trust was proposed to be sold for which a public notice came to be issued on 30.04.1993. It was proposed by the trust that the entire land proposed to be sold will be divided into different plots ranging from 1 Acre to 3 Acre and invited offers for the purchase of the plots. The applicant-herein was one of the successful bidders in respect of Plot Nos.4 and 8 admeasuring 60000 sqr. feet and 149000 sqr. feet. The consideration that was agreed upon between the parties was disturbed by the order of the Joint Charity Commissioner fixing the price at Rs.10,00,000/- per acre and as against which the applicant filed Writ Petition No.4273 of 1994, which subsequently came to be withdrawn on 04.08.1998. In the

interregnum, in the month of May, 1995 one Tanaji Bapu Dhamne filed Writ Petition No.3795 of 1995, challenging the order of the Joint Charity Commissioner in which certain interim orders came to be passed.

4. The order of the Joint Charity Commissioner was also challenged by the other successful bidders in this Court by a group of petitions which came to be disposed of, by order dated 30.01.2020. This court after taking into consideration the entire facts including the submissions of the trust, confirmed the sanction granted by the Joint Charity Commissioner subject to the modification that instead of Rs.10,00,000/- per acre, the petitioner and the “*other bidders*” who may be interested in pursuing the bid shall pay consideration of Rs.3 Crore per acres for the agricultural land in question. The increase in the price by this Court was by reason of the fact that the said price was as per the prevailing Ready Recknor Rates.

5. The provisions of Section 36 of the Trusts Act makes the sanction of the Joint Charity Commissioner a prerequisite before any transfer of property by way of sale, exchange, gift or lease can be executed by the trust and the sanction is required to be accorded only if the sanctioning authority is satisfied that it is in interest of the public trust that the immovable property be disposed of and while according sanction the authority is empowered to impose such conditions as deemed fit, regard being had to the interest or benefit of the trust. This is for the reason that as public

trust is meant for the benefit of the public, the protection of the immovable property is necessitated and as such, no person including a bidder can said to have any vested right to acquire the property of the trust for any particular price irrespective of any negotiations which may have been entered into between the purchaser and the trust.

6. Learned counsel appearing for the applicant submits that the applicant was not a party to the group of petitions which came to be disposed of by order dated 30.01.2020, and as such, the price which has been determined by this Court cannot be said to be binding in as much he was not heard before the passing the order dated 30.01.2020. He would further submit that civil application has been preferred for a direction that the order dated 30.01.2020 does not bind the interest of the applicant and for a direction to the respondent No.1-trust to execute the sale deed of the land permitted to be transferred in favour of the applicant on the agreed consideration.

7. Learned Counsel for Applicant submits that Petition filed by the applicant came to be withdrawn in view of the understanding entered into between the applicant and the respondent no.1-trust, which submission is opposed by the learned counsel for appearing for the trust. Learned counsel for the respondent-trust submits that the understanding, if any, was not between the trust and the applicant but between the Secretary of the trust, who is the father of the secretary of the applicant society.

8. Considered the submissions of the learned counsel for the applicant.

9. As already observed above, the prerequisite for the sale of the property is the grant of sanction by the Charity Commissioner and the Charity Commissioner is empowered to impose such conditions as he may be deem fit. The private negotiations between the applicant bidder and the Trust does not bind the Charity Commissioner, and in this particular case, after the sanction by the Charity Commissioner, the proceeding has reached this Court and this Court by order dated 30.01.2020, after considering the escalation in the price of the land have confirmed the sanction of the Joint Charity Commissioner at Rs.3 Crore per acre. As this Court in paragraph No.16 of the order has specifically stated that this price binds the petitioners and other bidders, the applicant herein cannot be permitted to submit otherwise.

10. In my view, the civil application is itself misconceived as what the applicant is in fact seeking a review of the order dated 30.01.2020. It is not stated in the application that the applicant was not aware of this proceeding and as such, could not have intervened in the said proceeding. There is no such case made out and a civil application in a disposed of writ petition is clearly unsustainable. Irrespective of the said fact, the statutory position is that the sale of the trust property can take place only upon the sanction by the Joint Charity Commissioner and in this particular case, the sanction was accorded by fixing the price at

Rs.10,00,000/- and the sanction has now been confirmed by this Court by increasing the price to Rs.3 Crore per acres, the applicant if interested in purchase of the property is bound by the amount confirmed by this Court and cannot insist on acquiring the property at Rs.10,00,000/- which was the amount sanctioned by the Joint Charity Commissioner. The sale is subject to the provisions of the Trusts Act, and this Court in exercise of its powers have fixed the price of Rs.3 Crore which is binding on all the bidders of the property bearing survey Nos.124 and 125.

11. For the reasons above, the Civil Application is clearly misconceived and is dismissed.

(SHARMILA U. DESHMUKH, J.)