

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.5181 OF 2022

Munisuvrat Swami Jain
Shwetamber Mandir Trust

...Petitioner

vs.

The Joint Charity Commissioner,
Kolhapur Division, Kolhapur and Others

...Respondents

Mr. Bhushan Mandlik, for the Petitioner.

Mr. A.P. Vanarase, AGP for the Respondents-State.

CORAM : N. J. JAMADAR, J.

DATE : APRIL 27, 2023

P.C.:

1. Heard the learned counsel for the parties.
2. The challenge in this petition is to an order passed by the learned Joint Charity Commissioner in an Application under section 36(1)(a) of the Maharashtra Public Trust Act, 1950 (the Act, 1950) whereby the prayer of the petitioner-trust to permit it to sale its property situated at CTS No.23A and 23/1 to 4, C Ward, Gujri, Kolhapur came to be rejected.
3. The learned Joint Charity Commissioner was of the view that the consideration offered by the bidder of Rs. 1,90,00,000/- was not optimum. In the opinion of the learned Charity Commissioner the trust property has the potential to fetch a better price. The learned

Charity Commissioner also found fault with the process of publishing the tender notice in one newspaper only. In his opinion, the tender notice ought to have been published in English and Marathi daily. However, both the English and Marathi version notices were published a in Marathi newspaper.

4. During the course of hearing of the petition, upon Court's suggestion, the petitioner has shown willing to issue a fresh public notice inviting the bids for the sale of trust property.

5. Today the learned counsel for the petitioner has tendered an affidavit of Mr. Sanghvi Kantilal Gulabchandji, the President of the petitioner trust. The affidavit reads as under:-

I say that the petitioner has no objection to issue fresh public notice inviting tenders for the sale of petitioner trust property at CTS No. 23 A and 23/1 to 4 at C Ward, Gujar Kolhapur. The petitioner also has no objection for the application under section 36 of the Maharashtra Public Trust Act, 1950 to be heard afresh by the respondent Joint Charity Commissioner, Kolhapur Division, Kolhapur and the petitioner accordingly, authorizes its advocate Mr. Bhooshan Mandlik, or such other advocate as he may authorize, to state so before the High Court, on its behalf.

6. In view of the aforesaid averments in the affidavit, it would be

expedient in the interest of trust to restore the Application No. 6 of 2019 to the file of learned Joint Charity Commissioner, Kolhapur for afresh determination from the stage of inviting tenders for the sale of the trust property by publishing notices in two newspapers namely Times of India (English) and Pudhari (Marathi) and, thereafter, following the due procedure in accordance with the provisions of the Act, 1950 and the Rules.

7. The impugned order stands set aside.

8. The Application No. 6 of 2019 stands remitted to the file of learned Joint Charity Commissioner, Kolhapur Division, Kolhapur.

9. The learned Joint Charity Commission, Kolhapur is requested to decide the application as expeditiously as possible.

The petition stands disposed.

(N. J. JAMADAR, J.)