

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

Writ Petition (WP) No. 2728 of 2018

Vishal Gajanan Agrawal

Versus

The Joint Charity Commissioner, Amravati Region, Amravati

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

Court's or Judge's Order

Shri A.J. Gilda, Advocate for the petitioner.

Shri H.D.Dubey, AGP for the sole-respondent.

Shri N.B.Kalwaghe, Advocate for the intervenor.

CORAM : ANIL S. KILOR, J.

DATED : 3rd JULY, 2023.

In this writ petition, the order dated 12th April, 2018 passed by the learned Joint Charity Commissioner, Amravati Region, Amravati, moved by the petitioner vide application No. 44 of 2014 filed under Section 36(1)(a) of the Maharashtra Public Trusts Act, 1950 (in short hereinafter referred as “Trusts Act, 1950”), rejecting the application and further directed to the Assistant Charity Commissioner-1, Amravati to take a detailed inspection of the trust through the inspector in order to ascertain whether the trustees are properly managing the affairs of the trust as well as the property of the trust and to take necessary

steps so as to increase income of the trust from the agricultural land, is under challenge.

2. Admittedly, the application was moved under Section 36(1)(a) of the Trusts Act, 1950 in the year 2014 and the period of nine years has been lapsed. Considering the period lapsed, there would be change in circumstances in which the application was moved to sell the trust property and the market price of the land in question. Thus, I am not inclined to go into the merits of the present matter as far as the permission under Section 36(1)(a) of the Trusts Act, 1950 is concerned.

3. At this stage learned counsel for the petitioner Shri Gilda has drawn attention of this Court to the directions issued by the Joint Charity Commissioner while rejecting the application. The clause (2) of the order reads thus:

“2. The Assistant Charity Commissioner-1, Amravati is directed to take detail inspection of the trust through the inspector in order to ascertain whether the trustees are properly managing the affairs of the trust as well as the property of the trust and to take necessary steps so as to increase income of the trust from the agricultural land.”

4. From the above referred directions issued by the Joint Charity Commissioner, it is evident that it is

beyond the scope of Section 36 of the Trusts Act, 1950. Moreover, I find substance in the submission of Shri Gilda, learned counsel for the petitioner that without issuing notice, such directions were issued.

5. In the circumstances as clause (2) of the impugned order dated 12th April, 2018 is without jurisdiction, the same needs to be set aside.

6. Accordingly, the writ petition is disposed of with liberty to the petitioner to move a fresh application under Section 36 of the Trusts Act, 1950, if so desire.

7. If such application is filed within six weeks from today, the learned Joint Charity Commissioner shall expedite the same and decide it at the earliest.

8. Needless to mention that the Joint Charity Commissioner shall decide the application, if so filed, on its own merit without influenced by the earlier observations made in the impugned order dated 12th April, 2018.

[ANIL S. KILOR, J.]