



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

WRIT PETITION (WP) NO. 4587 OF 2021

- 1) Dr. Tulsidas Vithuji Gedam Aged 96 yrs, Occ. Retd, R/o 103, Unmesh, Dhantoli, Nagpur-12
- 2) Ramesh Lahuji Ratnaparkhi, Aged 67 yrs, Occ. Private, R/o Bhagwan Nagar, 82, New Indira Colony, Nagpur-27
- 3) Unmesh Tulsidas Gedam, Aged 50 yrs, Occ. Private, R/o Plot No.103, Dhantoli, Nagpur-12
- 4) Dr. Usha Haribhau Borkar, Aged 75, Occ. Private, R/o MIG Colony, Medical Chowk, Nagpur.
- 5) Sau. Sangita Gangadhar Meshram, Aged 50 yrs. Occ. Private, R/o Plot No.91, Ratna Housing Society, Manish Nagar, Nagpur.
- 6) Dhanraj Kaoduji Rangari, Aged 82 yrs, Occ. Private, R/o Vakilpeth, Plot No.43, Ayurvedic Colony, Nagpur.
- 7) Anil Ramchadra Gaikwad, Aged 49 yrs, Occ. Service, R/o Behind Maharana Colony, Abhay Nagar, Nagpur-27.

.... Petitioner(s)

// VERSUS //

- 1) The Hon'ble Joint Charity Commissioner, Civil Lines, Nagpur.

... Respondent(s)

Shri S.D. Abhayankar, Advocate for the Petitioner/s
Ms M.A. Barabde, AGP for the Respondent-sole/State

CORAM : ANIL S. KILOR, J.
DATED : 14.09.2023

ORAL JUDGMENT :

1. Heard.
2. **Rule.** Rule made returnable forthwith. Heard finally by consent by the parties.
3. The judgment and order dated 31.01.2020, rejecting the application under Section 36(1)(a) of the Maharashtra Public Trusts Act, 1950 (for short “the Trust Act”) is under challenge in this petition.
4. The learned Joint Charity Commissioner, Nagpur while deciding the application under Section 36(1)(a) of the Trust Act, considered four aspects, which are stated in paragraph 6 of the impugned judgment, which read thus:

“6. The basis questions to be answered by this authority before granting sanction are that

1) Whether the applicant trust has clear title to transfer its immovable property in question by way of sale, being competent to do it.

2) Whether the applicant trust is in fact, in need of money to fulfill its objects.

3) Whether the resolution was passed by the applicant trust by unanimously or by majority to sell the trust property in question.

4) Whether there is any legal impediment to sell the immovable property in question. ...”

5. After going through Section 36 of the Trust Act, there is no requirement of point 4 as stated by the Joint Charity Commissioner, which is the only ground on which the application came to be rejected. The condition as recorded in point 4 is not contemplated under Section 36 of the Trust Act and therefore, rejecting the application on such ground is erroneous.

6. In the present matter, though the land in question i.e. plot No.230 is not sanctioned by the competent authority, the purchaser is available to purchase the same and since the Charity Commissioner has held that it is in the interest of the trust to

dispose of the property, I am of the opinion that the rejection of the application is illegal and it needs to be set aside. Accordingly, I pass the following order:

- (i) The writ petition is **allowed**.
- (ii) The order dated 31.01.2020 passed by Joint Charity Commissioner, Nagpur is hereby quashed and set aside and consequently, the application under Section 36(1)(a) of the Trust Act is allowed.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]