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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7758 OF 2023
WITH
WRIT PETITION NO. 7747 OF 2023**

Yakub Baig Trust(Erstwhile Known as ... Petitioner
Mominpada Masjid Yakub Baig Trust)

vs.

The Joint Charity Commissioner, Maharashtra ... Respondents
State, Mumbai and Anr

**WITH
INTERIM APPLICATION NO. 8169 OF 2024
IN
WRIT PETITION NO. 7758 OF 2023**

Mozzam Salim Baig ... Applicant

vs.

Yakub Baig Trust(Erstwhile Known as ... Respondents
Mominpada Masjid Yakub Baig Trust)

**WITH
INTERIM APPLICATION NO. 6366 OF 2024
IN
WRIT PETITION NO. 7758 OF 2023
WITH
INTERIM APPLICATION NO. 6782 OF 2024
IN
WRIT PETITION NO. 7747 OF 2023**

Imtiyaz S/o Salim Baig

... Applicant

vs.

Yakub Baig Trust(Erstwhile Known as
Mominpada Masjid Yakub Baig Trust)

... Respondents

Mr. Sachin Punde, for Petitioner.

Ms. Leena Patil, for Applicant(Intervenor) on behalf of Imtiaz Baig in
IA/6366/24 and IA/6782/24.

Ms. Pooja Jadhav a/w. Avantika Nishad, Intervenor on behalf of Mr.
Mozzam Salim Baig in IA/8169/24 in WP/7758/23 & WP/7747/23.

Ms. S.S. Bhende, AGP for the State.

CORAM : GAURI GODSE, J.

DATED : 3rd MAY 2024

P.C. :-

1. Heard. These petitions take an exception to the orders dated 25th January 2019, passed by the Joint Charity Commissioner, rejecting the petitioner's applications filed under section 36(1)(a) of the Maharashtra Public Trust Act, 1950 (**'Trust Act'**).

2. Learned counsel for the petitioner submits that though the petitioner had submitted the audit report as well as valuation report as directed by the Joint Charity Commissioner, the impugned orders are passed by recording an erroneous finding that the same were

not produced. He further submits that clause 15.A of the scheme permits the trustee who has filed the application to take decision regarding sale of the trust property. He submits that by relying upon clause 15.A (page 62 of the petition) one of the Chief Trustees had filed the applications. He therefore submits that the Joint Charity Commissioner has rejected the application on erroneous grounds. Since, two separate applications were filed for two different properties, two petitions are filed challenging separate orders rejecting both the applications. Though, separate orders are passed the reasons recorded by the Charity Commissioner while rejecting the applications are same. Hence, both the petitions are disposed of by passing this common order.

3. There are two intervention applications filed raising objections to the authority of the Chief Trustee to file the application for sale of the trust property. There are other advocates appearing today seeking liberty to file applications for intervention on similar grounds. The intervention applications already filed indicate that there is a serious dispute whether the property is a trust property or a wakf property.

4. Learned counsel for the petitioner submits that the issue regarding the property being a trust property is settled by this Court.

He relies upon the decision dated 1st November 1951, passed by this Court in Appeal No. 194 of 1997.

5. I have perused the papers. There are subsequent orders passed by the Hon'ble Supreme Court regarding notification issued about the existence of wakfs and the properties of wakfs. It is not in dispute that the present trust property was also a part of the order passed by the Supreme Court. It is further also not disputed that the proceedings are pending before the wakf board regarding the dispute of the trust property.

6. Perusal of the reasons recorded by the Joint Charity Commissioner indicates that there are disputes with regard to tenancy rights. The Joint Charity Commissioner has rejected the application by holding that the valuation report were directed to be filed of three valuers. However, report of the valuers, surveyor and Associate dated 10th November 2018 was filed. The Joint Charity Commissioner has considered the application and after examining the supporting valuation report and the market value has recorded that the amount offered by the purchaser is not fair, reasonable and adequate amount. The impugned orders also record that there is no compelling necessity to sell the properties.

7. On perusal of the papers, I do not find any error or illegality in the reasons recorded by the Joint Charity Commissioner in the impugned order. Perusal of the papers of the petition and the intervention applications indicate that there are serious disputes pending with regard to the status of the property as well as the trust and the petitioner's authority to take any decision. Clause 15.A of the scheme relied upon by the learned counsel for the petitioner to contend that the Chief Trustee has authority to take decision regarding sale of the property does not appear to be the correct position. Clause 15.A only refers to the legal proceedings on behalf of the trust.

8. Learned counsel for the petitioner is unable to point out the authority of the Chief Trustee to take decision regarding sale of the trust property. Considering the disputed facts and the controversies involved in the matter, I do not see any valid reason to interfere in the impugned orders by invoking powers under Articles 226 or 227 of the Constitution of India.

9. For the reasons recorded above, the petitions are dismissed. In view of the dismissal of the petitions, intervention applications are disposed of as infructuous.

(GAURI GODSE, J.)