

varsha

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 8494 OF 2021**

Jagruti Education Society, Sangli  
Tal-Miraj, District Sangli  
Through Secretary, Shri Shivraj Balasaheb  
Patil. ... Petitioner

vs.

1. The State of Maharashtra  
Mantralaya, Mumbai.
2. Assistant Charity Commissioner,  
Kolhapur Division, Kolhapur. ... Respondents

**WITH**

**INTERIM APPLICATION (ST) NO. 17252 OF 2023**

**IN**

**WRIT PETITION NO. 8494 OF 2021**

Rajkumar Ramchandra Jadhav  
R/o.8, Shilpa Housing Society, Shivshakti  
Nagar, MIDC, Miaj- 416410. ... Applicant

**IN THE MATTER BETWEEN**

Jagruti Education Society, Sangli  
Tal-Miraj, District Sangli  
Through Secretary, Shri Shivraj Balasaheb  
Patil. ... Petitioner

vs.

1. The State of Maharashtra  
Mantralaya, Mumbai.
2. Assistant Charity Commissioner,  
Kolhapur Division, Kolhapur. ... Respondents

Mr. Padmanabh D. Pise, for Petitioner.

Ms. Sejal A. Hariyan, for Intervenor.

Mrs. M.P. Thakur, AGP for Respondent-State.

**CORAM : GAURI GODSE, J.**

**DATED : 5<sup>th</sup> FEBRUARY, 2024**

**ORAL JUDGMENT. :-**

1. Heard learned counsel for the parties.
2. Rule. Rule is made returnable forthwith. Learned A.G.P waives service on behalf of the respondents. With the consent of the parties taken up for final disposal.
3. This petition challenges order dated 29<sup>th</sup> April 2019 passed by the Assistant Charity Commissioner, Kolhapur Division, Kolhapur rejecting the petitioner's application filed under section 36(1)(a) of the Maharashtra Public Trust Act (in short '**Trust Act**'). The said application of the petitioner trust is rejected on the ground that the sale price of the property should be atleast twice or more than four times of the ready reckoner rate. Learned counsel for the petitioner submits that all the procedure with respect to sale of the property was undertaken by the petitioner trust by issuing public advertisement.
4. Learned counsel for the petitioner states that in the

application before the Assistant Charity Commissioner, Kolhapur all the necessary details were pleaded with respect to procedure undertaken by the petitioner for inviting tenders for selling the property. He submitted that pursuant to the tender proceedings, the petitioner accepted the highest bid for an amount of Rs. 6,21,298/- of the highest bidder i.e Rajkumar Ramchandra Jadhav. He submits that thereafter, fresh tenders were called for pursuant to the order passed by the Assistant Charity Commissioner and the proceedings regarding fresh tenders were also placed before the Assistant Charity Commissioner. Pursuant to the fresh tenders, no better offer from any third person was received. However, the same highest bidder offered a higher amount of Rs. 7,25,000/-. He submits that though the higher amount was offered, the Assistant Charity Commissioner refused to grant permission on the ground that the permission can be granted only if there is a higher offer of twice or four times than the ready reckoner rate.

5. Learned counsel submits that inspite of conducting the proceedings of inviting tenders on two occasions, petitioner was unable to receive any better offer. He submitted that the petitioner Trust is an educational trust and the amount is required by the petitioner trust for the purpose of enhancing higher standards of the

school run by the petitioner Trust. He therefore submits that the reasons given by the Assistant Charity Commissioner refusing permission is unreasonable and unjust. He further submits that this Court by order dated 19<sup>th</sup> October 2022, permitted the petitioner to produce a fresh valuation report prepared by a Government Authorised Valuer. He submits that pursuant to the said order, the petitioner has placed on record valuation report dated 3<sup>rd</sup> November 2022. He submits that pursuant to the said report highest fair market value of Rs. 9,66,116/- is quoted. He submits that the highest bidder has filed intervention application. Learned counsel appearing for the intervenor states that pursuant to the fresh valuation report, he is ready to offer the price quoted in the valuation report. Considering, the reasons in the intervention application, the intervenor is permitted to intervene in the present matter and is heard with respect to the higher offer made pursuant to the fresh valuation report.

6. Learned AGP states that the valuation report relied upon by the petitioner is dated 3<sup>rd</sup> November 2022. She therefore submits that the petitioner may place on record a fresh valuation report and the Assistant Charity Commissioner be directed to decide the said application based on the fresh valuation report. Learned counsel

appearing for the petitioner as well as the intervenor are agreeable to obtain a recent valuation report and submit the same before the Assistant Charity Commissioner. Learned counsel appearing for the intervenor on instructions states that the intervenor is ready to purchase the property as per the latest market value of the property based on the fresh valuation report that will be submitted by the petitioner before the Assistant Charity Commissioner, or the price already offered by him, whichever is higher.

7. Though the petitioner has undertaken the tender process on two occasions and no higher offer was received by the petitioner. In my view, it is necessary to take into consideration the latest valuation report for the purpose of deciding the application for permission to sell the trust property. The reasons given in the impugned order that the permission can be granted only if twice or four times the ready reckoner rate whichever is higher, appears to be unjust and unreasonable. The petitioner is an education institution and thus, the reason given for sale of the property is also an important factor to be taken into consideration for deciding the application. Hence, in my view, application needs to be decided on the basis of the highest offer received by the petitioner and after taking into consideration the recent market rate as per the report

submitted by the Government approved valuer, whichever is higher.

8. For the reasons stated above, the petition is disposed of by passing following order:

I) Impugned order dated 29<sup>th</sup> April 2019 passed by the Assistant Charity Commissioner, Kolhapur division, Kolhapur in Application No. 13 of 2018 is quashed and set aside.

II) Application No. 13 of 2018 filed by the petitioner is restored to the file of the Assistant Charity Commissioner, Kolhapur division for hearing afresh, in terms of the observations made in this order.

III) Petitioner is permitted to place on record before the Assistant Charity Commissioner, the recent valuation report within a period of one month from today.

IV) The Assistant Charity Commissioner, Kolhapur division, Kolhapur shall decide the Application No.13 of 2018, afresh by taking into consideration the recent valuation report that will be submitted by the petitioner.

V) Since the original application is of the year 2018, hearing

of the application is expedited.

VI) Parties to appear before the Assistant Charity Commissioner, Kolhapur division, Kolhapur on 21<sup>st</sup> February 2024. Thereafter, learned Assistant Charity Commissioner to fix the date of further hearing of the application.

9. Writ petition is disposed of in the above terms.

10. In view of disposal of the above petition, the interim application also stands disposed of in the above terms.

11. All parties to act on the authenticated copy of this order.

**(GAURI GODSE, J.)**