

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST.) NO.4024 OF 2024

Kutch Deshiya Saraswat Brahmin Mahasthan
Trust

.. Petitioner

Versus

Joint Charity Commissioner HO-II

.. Respondent

.....

- Mr. Priyanshu S. Mishra, Advocate for Petitioner.
- Ms. V. R. Raje, AGP for Respondent – State.

.....

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 19, 2024

P.C.:

1. Heard Mr. Mishra, learned Advocate for Petitioner and Ms. Raje, learned AGP for Respondent – State.

2. One of the issue raised in the present Writ Petition in respect of disallowing permission under Section 36(1)(a) of the Maharashtra Public Trust Act, 1950 (for short '**the said Act**') due to under-valuation of the subject property i.e. building which is the subject matter of the Application filed by the Trust. It is seen that the Trust in turn has relied on two Valuation Reports dated 17.12.2015 and 17.07.2023 in support of valuation of the said building. Pursuant to the order of Charity Commissioner, Writ Petitioner – Trust has filed the fresh Valuation Report dated 17.07.2023. However it has not been accepted by the Competent Authority.

3. The said Valuation Report when perused by this Court *prima facie* appears to have been prepared on the basis of the physical structure of the building and taking into account certain aspects of Valuation. However what is significantly missing is the fact that the said report adopts land and building method only when in the opinion of this Court considering the location of the subject building, a detailed comparable sales instances method ought to had been adopted. Be that as it may, an independent expert's opinion is therefore required to be called for.

4. One of the principal objection that is raised by the Respondent – State is that the market value stated in the report is conservative rather well below the actual Valuation of the said building. The above issue therefore can be put to rest by appointment of an independent Valuer and calling for a Valuation Report in respect of the market value of the subject building.

5. In view of the above, Mr. Amol Shetgiri of M/s. Shetgiri and Associates is appointed as Valuer to conduct measurement and survey of the subject building and furnish the Valuation Report in respect of the same to this Court. Both the parties namely Petitioner and Respondent shall aid and assist the Valuer in undertaking the survey of the subject property and also furnish to him all such relevant and necessary documents as required and call for the purpose of

preparation of the Valuation Report.

6. Charges for preparing the Valuation Report of the Valuer shall be borne by the Writ Petitioner – Trust. Learned Advocate agrees to the same. The Valuer is requested by this Court to prepare the Valuation Report within a period of four weeks from today and place it before the Court. Report prepared by M/s. Shetgiri and Associates will be shared by him with both parties concerned so that they can address the Court on the same.

7. Copy of this order shall be placed before the Valuer by the Writ Petitioner immediately.

8. Liberty to apply in case of difficulty.

9. Stand over to **10th June, 2024**. To be placed under the caption ‘First on Board’.

H. H. SAWANT

[MILIND N. JADHAV, J.]

HARSHADA
HANUMANT
SAWANT

Digitally signed
by HARSHADA
HANUMANT
SAWANT
Date: 2024.04.20
15:15:28 +0530