



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.16925 OF 2024

Chest Research Foundation

... Petitioner.

Versus

The Joint Charity Commissioner

... Respondent.

Mr. Ashutosh Kumbhkoni, Senior Advocate alongwith Ms.Gauri Joshi i/by
Ganesh and Co. for the Petitioner.

Mr. Y.D. Patil, AGP for the Respondent-State.

Coram : Sharmila U. Deshmukh, J.

Date : November 22, 2024

P. C. :

1. By this Petition, the challenge is to the order dated 13th March, 2024 passed by the Joint Charity Commissioner in an Application filed under Section 36 of the Maharashtra Public Trusts Act, 1950, (for short, "Trust Act") rejecting the sanction sought by the Trust for sale of the immovable property.

2. Mr. Kumbhakoni, learned Senior Advocate appearing for the Petitioner would submit that the rejection is on the basis that certain procedures which were required to be followed were not followed and therefore, the Petitioner may be permitted to follow the prescribed procedure and thereafter apply afresh for sanction for sale of the property. He would however submit that without the

impugned order being quashed and set aside, the findings which recorded in the impugned order, the sale of trust property is not in the interest of the trust will bind the authority while considering the fresh application and for the said reason, the impugned order requires to be quashed and set aside.

3. He further points out that paragraph no.22 about the necessity of alienation of Trust property and would submit that having accepted that there is a necessity for alienation of the trust property, the Joint Charity Commissioner thereafter, could not have thereafter declined the sale of the trust property as not being in the interest of the trust. He further points out the contradictory findings in the impugned order recording that the sale of the trust property is not in the interest of the trust. He submits that in either case the finding would create an obstacle in the adjudication of the fresh application on its own merits.

4. *Per contra*, learned AGP submits that the Joint Charity Commissioner has held that the sale of the trust property is not in the interest of the trust by considering the fair market value of the trust property to be at Rs.53,44,00,000/-. He submits that considering the market value of the property, the proposal of the

higher bidder was not accepted and the proposal was not in the interest of the trust.

5. Perusal of the impugned order would indicate that the Joint Charity Commissioner by the order dated 26th June, 2023 had invited offers by way of public advertisement pursuant to which the offers were received and in the presence of the Authority, the highest bidder was permitted to purchase the property.

6. Considering that the office of the Joint Charity Commissioner itself had caused the publication of the sale and thereafter had declared YUCCA Promoters as the highest bidder, it is thereafter not open for the Joint Charity Commissioner to reject the sanction on the basis of the market valuation of the trust property as there was no further bids which were received.

7. Be that as it may. Mr. Kumbhakoni today seeks liberty to file a fresh Application after following the procedure which will also include inviting fresh advertisement by public notice and therefore, the reluctance of the Joint Charity Commissioner to accept the highest bidder on the basis of fair market value of the trust property can also be adjudged. Mr. Kumbhakoni is right in submitting that the findings as regards the sale of the trust

property not being in the interest of the Trust would bind the subsequent consideration and therefore the impugned order is required to be quashed and set aside.

8. In light of the above, the impugned order dated **13th March, 2024** is hereby quashed and set aside. The Petitioner is at liberty to apply for fresh sanction after completing all procedures as mandated by law. The Joint Charity Commissioner thereafter to consider the said proposal in accordance with law and uninfluenced by the observations contained in the impugned order dated **13th March, 2024**. Writ Petition stands disposed of in the above terms.

[Sharmila U. Deshmukh, J.]

(Corrected pursuant to the Speaking to the Minutes order dated 27th November, 2024.)