

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.4926 OF 2024

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P. D. Sekhsaria Memorial Trust

...Petitioner

Versus

The Learned Joint Charity Commissioner,
State of Maharashtra, Mumbai

...Respondent

Mr. Vishwanath Patil a/w. Mr. Parth Turakhia, Advocates, i/b. AAK
Legal, for the Petitioner.

Ms. Uma Palsuldesai, AGP, for the Respondent No.1.

CORAM: MADHAV J. JAMDAR, J.

DATED : 10th DECEMBER 2024

P. C.:

1. Heard Mr. Vishwanath Patil, learned Counsel appearing for the Petitioner and Ms. Uma Palsuldesai, learned AGP, appearing for the Respondent No.1.

2. By the present Writ Petition filed under Article 226 of the Constitution of India, the challenge is to the legality and validity of the order dated 4th June 2024 passed by the learned Joint Charity Commissioner, State of Maharashtra, Mumbai in Application No.155 of 2018, by which Application filed under Section 36(1)(a)

of the Maharashtra Public Trust Act, 1950 ("**the said Act**") by the Petitioner has been rejected.

3. Mr. Vishwanath Patil, learned Counsel appearing for the Petitioner submitted that the said Application filed under Section 36(1)(a) of the said Act has been rejected mainly on the ground that one of the trustee namely Mr. Arun Sekhsaria has submitted bid for an amount of Rs.80,00,000/- (Rs. Eighty Lakhs only). He submitted that the said trustee has submitted the bid, as inspite of multiple Public Notices for alienation of subject properties, no bids had been received.

4. While rejecting the Application, learned Joint Charity Commissioner has *inter alia* relied on Section 36(a) (4) of the said Act which provides that no trustee shall borrow money for his own use from any property of the public trust of which he is a trustee.

5. Sub-Section (1)(e) of Section 41D of the said Act provides that the Charity Commissioner, either on Application of a trustee or any person interested in the trust, or even *suo moto*, may suspend, remove or dismiss any trustee of a public trust if he accepts any

position in relation to the trust which is inconsistent with his position as trustee. Sub-Section (1)(d) of Section 41D also empowers Charity Commissioner to take such actions if a trustee misappropriates or deals improperly with the properties of the trust of which he is a trustee.

6. Thus, it is clear that a trustee is required to protect the interest of the trust and in his capacity as a trustee of the charitable trust, he cannot be personally interested in any matter concerning the trust including purchase of the property of the trust. Therefore, no illegality or impropriety can be found in the impugned order dated 4th June 2024 passed by the learned Joint Charity Commissioner.

7. However, Mr. Vishwanath Patil, learned Counsel appearing for the Petitioner submitted that in the interest of the trust, the immovable properties situated at Bhatinda, Punjab are required to be sold and since the year 2018, the trust is taking efforts to sale the subject properties and as no bids were received, said trustee Mr. Arun Sekhsaria proposed to buy the subject properties for sum of Rs.80,00,000/- in the year 2018. He submitted that in view of

all these difficulties, said Mr. Arun Sekhsaria has tendered his resignation as trustee of the said trust on 3rd December 2024 and the said resignation has been accepted by the Petitioner-Trust on 6th December 2024. On behalf of the Petitioner additional affidavits are filed by all the trustees namely, Sulochana Sekhsaria, Brijmohan Sekhsaria and Mayank Sekhsaria. Paragraph Nos. 4 to 7 of the said affidavit of Brijmohan Sekhsaria reads as under:

"4. I am also aware of the fact that despite the issuance of Public Notices in 2018 for alienation of the Subject Properties in multiple newspapers in Punjab and Mumbai, no bids had been received and owing to such circumstances, one of the Trustees Mr. Arun Sekhsaria proposed to buy the Subject Properties for a sum of Rs. 80,00,000/- (Rupees Eighty Lakhs Only) in the year 2018. The proposal was unanimously accepted by the Trustees as the said Trust had failed to receive any other bid despite their best efforts to sell the Subject Properties through Public Notices.

5. After the acceptance of the bid by the said Trust from Mr. Arun Sekhsaria, the said Trust made an Application before the LD Charity Commissioner Mumbai under Section 36 of the Maharashtra Public Trust Act, 1950 for sanction of the sale and acceptance of the bid by filing Application No. 155 of 2018. I say that by Order dated 04th June, 2024, the Ld. Charity Commissioner, Mumbai refused to grant sanction holding that Mr. Arun Sekhsaria cannot purchase the Subject Properties being Trustee of the said Trust. Being aggrieved, the Trust has filed the Writ Petition No. 4926 of 2024 before the Hon'ble Bombay High Court.

6. I say that pursuant to the listing of the matter before this Hon'ble Court on 2nd December, 2024 and after thorough discussion and deliberation, I hereby consent to the following:-

a. Mr. Arun Sekhsaria has tendered his resignation as a Trustee of the said Trust on 03th December, 2024.

b. The resignation tendered by Mr. Arun Sekhsaria was duly accepted by the said Trust on 06th December, 2024.

c. That the said Trust will once again issue the Public Notices in various News Papers for the alienation of the Subject Properties situated in Bhatinda, Punjab along with the Hospital constructed thereon for inviting bids from prospective Purchasers interested to purchase the same.

d. Post resignation of Mr. Arun Sekhsaria from the said Trust, Mr. Arun Sekhsaria will also be allowed to participate in the bids for sale of the Subject Properties. I further say that the bidding process will be fairly conducted and only the bid of the highest bidder will be accepted by the said Trust.

e. After completion of the bidding process, the said Trust will once again approach the Ld. Joint Charity Commissioner, Mumbai by way of an Application under Section 36 of the Maharashtra Public Trust Act, 1950 seeking sanction and approval in respect of the bids received for the sale of the Subject Properties.

7. In view of the above, I therefore pray to this Hon'ble Court that if such an Application under

Section 36 of the Maharashtra Public Trust Act, 1950 is made by the said Trust, this Hon'ble Court may be pleased to direct the Ld. Joint Charity Commissioner, Mumbai to decide the subsequent application within a period of 3 months from the date of its filing."

Thus, it is clear that in effect the Petitioner has given up the challenge to the impugned order dated 4th June 2024 passed by the learned Joint Charity Commissioner.

8. In the affidavit of Brijmohan Sekhsaria, one of the trustee of the trust, it is stated that the trust will again follow the procedure and file fresh Application under Section 36 of the said Act.

9. Mr. Vishwanath Patil, learned Counsel appearing for the Petitioner on instructions, states that even the fresh Valuation Report will also be obtained as the earlier process for sale of the properties is of the year 2018.

10. Accordingly, if the fresh Application under Section 36 of the said Act is filed by the Petitioner-Trust, the same be decided expeditiously and within a period of six months.

11. It is clarified that this Court has not expressed any opinion and all contentions with respect to fresh Application proposed to be filed under Section 36 of the said Act are expressly kept open.

12. As the Petitioners have given up the challenge to the impugned order dated 4th June 2024 passed by the learned Joint Charity Commissioner, the Writ Petition is dismissed, subject to above.

[MADHAV J. JAMDAR, J.]

Note: This order is modified as per Speaking to Minutes Order dated 06/01/2025.