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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4146 OF 2025

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ATUL GANESH KULKARNI

Rajendra Govind Kulkarni … Petitioner
V/s.
Joing Charity Commissioner I
Maharashtra State, Mumbai & Ors. … Respondents

Mr. Drupad S. Patil with Ms. Srushti Chalke and Mr. Ajay Jaybhoy for the petitioner.

Mr. P.V. Nelson Rajan, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 27, 2025

P.C.:

1. The challenge in the present Writ Petition is at the behest of the petitioner, who claims to be the highest bidder pursuant to the proceedings initiated under Section 36 of the Maharashtra Public Trusts Act, 1950 (hereinafter referred to as “the said Act”), in the year 2018. The petitioner seeks to question the legality and propriety of the order passed by the Charity Commissioner on 24 January 2025, whereby the Charity Commissioner has directed issuance of a fresh public notice inviting offers for sale of the Trust property, instead of granting sanction to the transaction as per the highest offer received earlier.

2. It is the case of Respondent No.2 – the Public Trust, that it intended to alienate an immovable property owned by the Trust and accordingly, had filed an application under Section 36 of the said Act seeking permission of the Charity Commissioner to effectuate the said transaction. The Trust had, in the year 2018, published a public advertisement in two widely circulated daily newspapers inviting offers from the general public for purchase of the Trust property. In response to the said advertisement, the Trust received eight offers. Taking into consideration the highest offer and the valuation report then available, the Trust submitted an application bearing No.826 of 2018 under Section 36 of the said Act before the Charity Commissioner seeking sanction to the proposed sale. However, by order dated 4 December 2018, the Charity Commissioner was pleased to reject the said application on the ground that the Trust had failed to demonstrate any compelling necessity warranting the sale of the Trust property.

3. Being aggrieved by the rejection of its application, the Trust preferred Writ Petition No.3956 of 2023 before this Court. By order dated 12 April 2024, this Court was pleased to set aside the order dated 4 December 2018 passed by the Charity Commissioner and directed the Trust to implead the members of the existing Managing Committee as reflected in the Change Report accepted on 15 September 2023. Consequent thereto, the said Application No.826 of 2018 was restored to the file of the Charity Commissioner for fresh consideration in accordance with law.

4. In compliance with the directions issued by this Court, the Charity Commissioner has passed the impugned order dated 24 January 2025, thereby directing issuance of a fresh public notice for inviting offers from the public by publishing the same in widely circulated newspapers. While doing so, the Charity Commissioner observed that the initial advertisements calling for offers had been published on 17 June 2018 and 20 June 2018, and that the valuation report relied upon by the Trust was dated 22 December 2017. Taking into consideration that a substantial period of almost seven years had elapsed since the initial invitation of offers, and having regard to the locational advantage and the consequent escalation in the market value of the subject property, the Charity Commissioner found it appropriate to invite fresh offers so as to secure a fair and competitive price in the interest of the Trust.

5. It is the grievance of the petitioner that he was the highest bidder in the earlier round of bidding process conducted in the year 2018, and that the Trust had accepted his offer and agreed to sell the property in his favour. According to the petitioner, the subsequent decision of the Charity Commissioner to invite fresh offers in the year 2025 seriously prejudices his vested rights and legitimate expectations arising from the Trust's acceptance of his offer. The petitioner contends that once the Trust had accepted the offer and approached the Charity Commissioner for sanction, the said transaction ought to have been sanctioned on the basis of the valuation prevailing in the year 2018, and the Charity Commissioner was not justified in directing a fresh process after a lapse of time.

6. In the considered opinion of this Court, the petitioner, who claims to be the highest bidder in the earlier round of proceedings conducted in the year 2018, does not possess the locus standi to assail the order dated 24 January 2025 passed by the Charity Commissioner, whereby a direction has been issued to invite fresh offers from the public by publishing a notice in widely circulated newspapers and to obtain a latest valuation report. The said direction has been issued in the peculiar facts of the case, particularly in view of the lapse of considerable time – a period of nearly seven years – since the earlier round of bidding and valuation process. It is well settled that no bidder, including the highest bidder, acquires any vested or accrued right in relation to a proposed transaction until the same is duly sanctioned by the competent authority under law.

7. A mere bid or acceptance of a bid does not create a concluded contract unless the statutory approval is obtained. Participation in a tender process or being declared the highest bidder does not confer any indefeasible right in the absence of final approval or sanction.

8. Applying these settled principles to the facts at hand, it is evident that the petitioner had no enforceable legal right in his capacity as the erstwhile highest bidder to insist upon the sale being concluded in his favour at the price offered in 2018, particularly when the Charity Commissioner had, in exercise of statutory discretion under Section 36 of the Maharashtra Public Trusts Act, 1950, declined permission to the sale at that stage, and now, for justifiable and recorded reasons, has directed initiation of a fresh process. In fact, the impugned direction of the Charity Commissioner appears to be informed by considerations of fairness, transparency, and public interest, which are inherent in transactions involving trust properties.

9. Therefore, the challenge raised by the petitioner is devoid of merit and cannot be entertained. The writ petition is liable to be rejected on the ground of lack of locus as well as absence of any legally enforceable right.

10. However, in order to ensure fairness and equity, it is clarified that the petitioner shall be at liberty to participate in the fresh process of inviting public offers, and nothing contained in this judgment shall preclude the petitioner from submitting a fresh offer in response to the public notice to be issued in pursuance of the impugned order. Should the petitioner's offer, in the fresh round, be considered to be the most competitive and is accepted and sanctioned by the Charity Commissioner under Section 36 of the said Act, it is directed that the amount, if any, earlier deposited by the petitioner with the Trust, shall be adjusted and appropriated towards the sale consideration payable by the petitioner.

11. The writ petition stands disposed of in the aforesaid terms. There shall be no order as to costs.

(AMIT BORKAR, J.)