

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2793 OF 2018

Vijaysinghraje Madhavrao Patvardhan V/S Vidhyarthi Sahayyak Mandal Rajwada Parisar & Anr.	Petitioner Respondents
--	---

**WITH
INTERIM APPLICATION NO.1688 OF 2019
IN
WRIT PETITION NO.2793 OF 2018**

Vijaysinghraje Madhavrao Patvardhan V/S Vidhyarthi Sahayyak Mandal Rajwada Parisar & Anr.	Applicant Respondents
--	--

**WITH
WRIT PETITION NO.2700 OF 2018**

Vijaysinghraje Madhavrao Patvardhan V/S Vidhyarthi Sahayyak Mandal Rajwada Parisar & Anr.	Petitioner Respondents
--	---

Mr. Shekhar Jagtap with Ms. Sairuchita Choudhary i/b Mr. Ranjeet Nimbalkar *for the Petitioner in WP Nos.2700 of 2018 and 2793 of 2018.*

Mr. A.S. Khandeparkar, Senior Advocate with Prerak A. Sharma for Respondent No.1-Trust.

Mr. Sagar Ghogre with Mr. Sarvesh Gawade i/b Mr. Nitin Deshpande *for Respondent No.3.*

Mr. J.P. Patil, AGP for Respondent No.2/State in WP 2700 of 2018.

Mr. V.R. Raje, AGP for Respondent No.2/State in WP 2793 of 2018.

CORAM: SANDEEP V. MARNE, J.
DATE : 08 MAY 2025.

P.C.:

1. These two Petitions emanate out of enquiry conducted by the Joint Charity Commissioner under provisions of Section 36 (1A) of the Maharashtra Public Trusts Act, 1950 (**MPT Act**) in Application No.103 of 2017 filed by the first Respondent-Trust seeking alienation of the Trust property. Petitioner believes that he is the owner of properties which the first Respondent-Trust has proposed to alienate. The Petitioner accordingly filed an Application for impleadment under provisions of Order I, Rule 10 of the Code of Civil Procedure, 1908 (**the Code**) in Application No.10 of 2017. That Application came to be rejected by the Joint Charity Commissioner by order dated 17 January 2018, which is subject matter of challenge in Writ Petition No.2700 of 2018. The Joint Charity Commissioner thereafter proceeded to allow Application No.103 of 2017 by judgment and order dated 31 January 2018 granting permission for alienation of the Trust properties. Order dated 31 January 2018 is subject matter of challenge in Writ Petition No.2793 of 2018.

2. I have heard Mr. Jagtap, the learned counsel appearing for the Petitioner, Mr. Khandeparkar, the learned Senior Advocate appearing for the first Respondent-Trust and Mr. Ghogre, the learned counsel appearing for the third Respondent.

3. After having considered the submissions canvassed by the learned counsel appearing for parties, it appears that the real grouse of the Petitioner is his claim that he is the owner of properties, which are taken up for alienation by the Respondent-Trust. It is this belief of the Petitioner that has made him intervene in Application No.103 of 2017 as the Petitioner apprehends that his property would be sold by the Respondent-Trust by securing permission under section 36 of the MPT Act. It is sought to be contended by Mr. Jagtap that in an enquiry conducted under Section 36 of the MPT Act, the Joint Charity Commissioner must also frame and decide issue as to whether the property indeed is the Trust property or not. It is Mr. Jagtap's contention that the properties taken up for alienation are not even included in Schedule I of the Trust. It is contended that the said properties are 'A' list properties which could not be made part of the Trust properties. Mr. Jagtap however fairly concedes that the Petitioner has already filed several suits seeking declaration of title in respect of the concerned properties.

4. In my view, in a limited remit of enquiry under Section 36 of the MPT Act all that needs to be enquired by the Joint

Charity Commissioner is whether the alienation of the Trust property is in the interest of the Trust or not. In that enquiry, the Joint Charity Commissioner cannot be called upon to enquire as to whether the Trust is the real owner of the property or not or who is the real owner thereof. When the Petitioner seeks to contend that the properties do not form part of Schedule I of the Trust, what he actually seeks to assert is that he is the real owner of the properties. I am afraid, this contention of the Petitioner cannot be adjudicated in limited scope of enquiry under Section 36 of the MPT Act. As observed above, Petitioner has already instituted Civil Suits seeking declaration of title in the properties. If the properties are conveyed in favour of the third Respondent by the first Respondent-Trust in pursuance of the impugned permission granted by the Joint Charity Commissioner, it would be open for the Petitioner to amend the complaints and incorporate challenge to the conveyance in favour of the third Respondent. Such suits instituted by the Petitioner would obviously be adjudicated uninfluenced by the finding recorded by the Joint Charity Commissioner in the impugned order dated 31 January 2018. Mere grant of permission by the Joint Charity Commissioner by order dated 31 January 2018 would not automatically destroy the claim of the Petitioner raised in his suits, which need to be adjudicated on their own merits. In my view therefore, Petitioner was not at all a necessary party to Application No.103 of 2017 and his Application has rightly been rejected by the Joint Charity Commissioner by order dated 17 January 2018. Since Petitioner

was not a necessary party to Application No.103 of 2017 his locus to question correctness of final judgment and order dated 31 January 2018 passed by the Joint Charity Commissioner also becomes questionable. Even if Petitioner's locus to challenge final judgment and order dated 31 January 2018 is to be momentarily ignored, in my view, Petitioner cannot expect conduct of enquiry into his title to the properties in question by challenging the judgment and order dated 31 January 2018. Petitioner will have to prosecute the suits filed by him for seeking declaration of title in the properties, which are sought to be alienated by the Respondent-Trust. I therefore, do not find any valid ground to entertain the present Petitions in exercise of jurisdiction under Article 227 of the Constitution of India. Leaving open all the contentions raised by the parties on merits as well as reserving the liberty to the Petitioner to agitate all the issues before the Civil Court in pending suits, both Petitions are accordingly **disposed of**. Interim relief would stand vacated.

5. The amount deposited by the Petitioner in pursuance of order dated 29 July 2019 is permitted to be withdrawn alongwith accrued interest.

(SANDEEP V. MARNE, J.)

Digitally signed
by
SUDARSHAN
RAJALINGAM
KATKAM
Date:
2025.05.09
18:59:00 +0530

katkam