IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2399 OF 2025

Lata Prakash Vaiti ... Petitioner
vrsus
The Joint Charity Commissioner,
Greater Mumbai Region, Mumbai
and others ... Respondents

Mr.Sukhand Kulkarni with Adv.Ruchita Chavan i/by Mr.Amit Karkhanis, Advocate for Petitioner.
Ms.Sulbha D.Chipade, AGP, for State.

CORAM : AMIT BORKAR, J.

DATE : 11th March 2025

PC :

1. The present Writ Petition is filed under Article 227 of the Constitution of India challenging the legality, validity, and propriety of the order passed by the learned Joint Charity Commissioner, whereby the revision application preferred by the Petitioner under Section 78 of the Maharashtra Public Trusts Act, 1950, has been rejected on the ground that the same was filed beyond a reasonable period from the date on which the property in question became a trust property, i.e., in the year 1959.

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2. The brief facts and circumstances giving rise to the present petition are as follows:

According to the Petitioner, the property in question was originally owned by one Mrs. Yesubai Tare, who, during her lifetime, had executed a gift in favour of her daughter and son-in-law. It is the case of the Petitioner that he has succeeded to the said property by virtue of the law of succession. However, in the year 2019, the Petitioner, for the first time, came to know that a revenue entry had been effected in the records, showing the property in the name of Respondent No.3 - the Trust. Upon becoming aware of such an entry, the Petitioner instituted an appeal bearing Appeal No.35 of 2019 before the Sub-Divisional Officer, Vasai, District Palghar. The said appeal, however, was rejected vide order dated 19th January 2021. Being aggrieved by the rejection of the said appeal, the Petitioner preferred RTS Appeal No.62 of 2021 before the Additional Collector, Palghar, who, vide order dated 24th September 2021, partly allowed the appeal and directed the Petitioner to obtain appropriate permission from the Charity Commissioner. In compliance with the order dated 24th September 2021 passed by the learned Additional Collector, the Petitioner instituted Revision Application No.171 of 2021 before the Joint Charity Commissioner, seeking appropriate reliefs. However, by the impugned order dated 26th July 2022, the learned Joint Charity Commissioner was pleased to dismiss the said revision application. Aggrieved by the said order, the Petitioner has invoked the writ jurisdiction of this Hon'ble Court under Article 227 of the Constitution of India.

3. Learned counsel appearing for the Petitioner has invited the attention of this Court to the order dated 24th September 2021 passed by the Additional Collector and has submitted that in view of the specific directions issued therein, which were in the exercise of power under Section 247 of the Maharashtra Land Revenue Code, 1966, it was incumbent upon the learned Charity Commissioner to entertain the revision application filed by the Petitioner under Section 70A of the Maharashtra Public Trusts Act, 1950. He further contends that neither the Petitioner nor his predecessors-in-title had any knowledge regarding the property being recorded as that of a trust until the year 2019. It is submitted that the trust itself has, in unequivocal terms, accepted the Petitioner's claim that he is the lawful owner of the property in question, and that the entry of the trust's name in Schedule-II of the Public Trust Register is incorrect. In such circumstances, it is urged that the impugned order passed by the learned Joint Charity Commissioner suffers from a grave jurisdictional error, warranting interference by this Hon'ble Court in the exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

4. On a perusal of the impugned order, it is evident that the learned Joint Charity Commissioner placed reliance on various judgments of this Hon'ble Court and the Hon'ble Supreme Court of India, including the decision in *Santosh Kumar Shivgonda Patil Vs Balasaheb Tukaram Shevale & Ors. reported in (2009) 9 SCC 352*, wherein it was held that the revisional power under Section 70A of the Bombay Public Trusts Act, 1950—whether invoked suo motu or otherwise—is a discretionary power, and such power is required to be exercised within a reasonable period. The question of what constitutes a “reasonable time” must necessarily be decided on a case-to-case basis, having regard to the facts and circumstances obtaining therein.

5. In the facts of the present case, it is not in dispute that the property in question was recorded in the trust register, as well as in the relevant revenue records, as trust property in the year 1959. Further, it is also not in dispute that the name of the trust was duly reflected in the revenue records. Form 7/12, prescribed under the Maharashtra Land Revenue Code (MLRC) Rules, is a statutory format used for recording the nature of possession and other rights. Being a public document, any entry reflected therein constitutes constructive notice to all concerned, by virtue of the legal fiction under Section 3 of the Transfer of Property Act, 1882. In the considered view of this Court, therefore, the plea of the Petitioner that he had become aware of the property being declared as trust property only in the year 2019 is untenable, as a period of more than forty-five years cannot, by any stretch of the imagination, be held to be a reasonable period to invoke the revisional power under Section 70A.

6. It is further contended on behalf of the Petitioner that the trust itself admitted, at some point, that the property in question is not owned by it, thereby effectively disowning the title. However, it is a settled principle that an admission by the trust cannot, by itself, confer ownership rights on the Petitioner in the absence of a proper adjudication by the Charity Commissioner, who exercises parens patriae jurisdiction under Section 187 of the Maharashtra Public Trusts Act, 1950. In other words, if the trust were to merely admit that it was not the owner of the property, such admission alone would not automatically vest title in the Petitioner, unless the issue of title is duly determined by the competent authority. Considering the inordinate delay of more than forty-five years in challenging the said entry in the trust register and revenue records, the learned Joint Charity Commissioner has rightly concluded that the revision application was liable to be dismissed.

7. I find no ground to interfere with the impugned order in exercise of jurisdiction under Article 227 of the Constitution of India. The petition is, accordingly, dismissed.

(AMIT BORKAR, J.)

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