

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3940 OF 2024

M/s Constrokraft Realities LLP

...Petitioner

Vs.

Chinchwad Deosthan Trust & Ors.

...Respondents

WITH
WRIT PETITION (ST) NO. 15655 OF 2025 (NOB)

Mr. Rajendra Pai, Senior Advocate a/w Praful Valvi, Akshay Pai and Prajakta S. i/by Praful Valvi for the Petitioner.

Mr. Surel Shah, Senior Advocate a/w Manoj Patil for Respondent No.1.

Mr. Avinash Kr. Lakhanpal a/w Subhas S. Machare for the Petitioner in WP/6986/2019.

Mr. A. A. Kumbhakoni, Senior Advocate a/w J. G. Aradwad (Reddy) for Respondent No.3.

Ms. Neha Bhide, GP a/w S. D. Vyas, Addl. G. P. and Tejas Kapre, AGP for Respondent No.4.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE : 29 APRIL 2025

P.C.:-

1. This petition under Article 226 of the Constitution of India has been filed praying for the following substantive reliefs:-

“a) The Hon’ble High Court may kindly be pleased to issue a writ of Certiorary or a writ in the nature of Mandamus or any other appropriate writ, order or direction, thereby directing the trustees of respondent no. 1 trust to execute a valid deed of conveyance of the said property in favour of the Petitioner herein, by accepting the offer of the Petitioner of Rs. 7 Crores to purchase the property which is the subject matter of the present petition,

b) In the alternative, the Hon'ble High Court may kindly be pleased to issue a writ of Certiorary or a writ in the nature of Mandamus or any other appropriate writ, order or direction, thereby directing the respondent no. 4 herein to re-open the proceedings of application bearing no. 10/1998 under Section 36 of the Maharashtra Public Trusts Act, 1950 and consider the offer of the Petitioner of Rs. 7 Crores therein to purchase the subject property,"

2. Mr. Kumbhakoni, learned senior counsel, who represents respondent no.3 has raised a preliminary objection to the maintainability of the petition considering the prayers as made. However, during the course of hearing, we find that the petitioner has filed a miscellaneous application before the Joint Charity Commissioner, Pune region, which is dated 14 September 2023, praying for substantive reliefs which are stated to be in relation to the orders which had passed by the the Joint Charity Commissioner in regard to the subject property of Trust under Section 36 of the Maharashtra Public Trusts Act, 1950.

3. We find that there is an order dated 19 November 1998, which was passed by the Joint Charity Commissioner under Section 36 of the Maharashtra Public Trust Act permitting sale of the subject property in favour of respondent No.3 asserting its contention under the said order. On the other hand, the Trust has also taken a position, insofar as its rights and interest in regard to the said property are concerned. The Trust has filed writ petition being writ petition (St.) No.15655 of 2025, which is before us, in which it is inter alia prayed that the order dated 19

November 1998 passed by the Joint Charity Commissioner under Section 36 of the Maharashtra Public Trusts Act, 1950 be set aside as also there are other prayers which are required to be noted, which read thus:-

“b. This Hon'ble Court be pleased to issue writ of certiorari and or any other appropriate writ, order and or direction and to quash and set aside the order dt. 19 November 1998 passed by the Ld. In-charge Joint Charity Commissioner, Pune Region, Pune in Application No. 10 of 1998 filed u/s 36 of the Maharashtra Public Trusts Act, 1950; so also to quash and set aside the order dt. 3 May 2019 passed by the Ld. Assistant Charity Commissioner, Pune in Application No. 21 of 2019 filed u/s 41-A of the Maharashtra Public Trusts Act, 1950 in the interest of justice.

c. This Hon'ble Court be pleased to issue writ of certiorari and or any other appropriate writ, order and or direction and to quash and set aside the previous proceedings accrued on the basis of order dt. 19 November 1998 passed by the Ld. In-charge Joint Charity Commissioner, Pune Region, Pune in Application No. 10 of 1998 filed u/s 36 of the Maharashtra Public Trusts Act, 1950 with regard to the Petitioner Trust property of Survey No. 7, Area of 56 Hector 96 R situated at Baner, Tal.: Haveli, Dist.: Pune, by holding and declaring that as the same has not resulted into fruitful achievement and to satisfy the necessity of needs of Petitioner Trust on timely.

d. This Hon'ble Court be pleased to issue writ of mandamus and or any other appropriate writ, order and or direction and to direct the Ld. Joint Charity Commissioner, Pune Region, Pune to conduct fresh proceedings u/s 36 of the Maharashtra Public Trusts Act, 1960 with regard to the Petitioner Trust property of Survey No. 7, Area of 56 Hector 96 R situated at Baner, Tal.: Haveli, Dist.: Pune, so as to secure and protect the interest, benefit and welfare of the Petitioner Trust.

e. During the pendency and final disposal of the present writ petition, this Hon'ble Court be pleased to stay the effect, operation and execution of the order dt. 19 November 1998 passed by the Ld. In-charge Joint Charity Commissioner, Pune Region, Pune in Application No. 10 of 1998 filed u/s 36 of the Maharashtra Public Trusts Act, 1950; so also to stay the effect, operation and execution of the order dt. 3 May 2019 passed by the Ld. Assistant Charity Commissioner, Pune in Application No. 21 of 2019 filed u/s 41-A of the Maharashtra Public Trusts Act, 1950 in the interest of justice.

f. During the pendency and final disposal of the present writ petition, this Hon'ble Court be pleased to direct the Ld. Joint Charity Commissioner, Pune Region, Pune to conduct fresh proceedings u/s 36 of the Maharashtra Public Trusts Act, 1960 with regard to the Petitioner Trust property of Survey No. 7, Area of 56 Hector 96 R situated at Baner, Tal.: Haveli, Dist.: Pune, so as to secure and protect the interest, benefit and welfare of the Petitioner Trust.”

4. Having considered the submissions made at the Bar, as also having perused the record, we may observe that insofar as the first writ petition filed by M/s. Constrokraft Realities LLP. is concerned, the application made by the petitioner before the Joint Charity Commissioner on the order dated 19 November 1998 passed by the Commissioner is required to be taken forward as the contentions which are urged in the present petition are also the contentions raised in such proceedings which are pending before the Joint Charity Commissioner for almost two years. Insofar as the writ petition filed by the Trust is concerned, Mr. Shah, learned senior counsel on instructions states that his client also intends to withdraw the said petition with liberty to the petitioner to raise all contentions as

raised in the said petition in appropriate proceedings before the Joint Charity Commissioner praying for revoking the order dated 19 November 1998. In our opinion the parties need to pursue such proceedings.

5. We may clarify that in passing the above order, we have not delved into the merits of the rival contentions. All such contentions are expressly kept open to be considered and adjudicated by the learned Joint Charity Commissioner in the pending proceedings and/or in the proceedings which would be filed by respondent No.1-Chinchwad Deosthan Trust.

6. In this view of the matter, we are of the opinion that both the petitions can be disposed of in terms of the following order:-

- i. The petitioner-M/s Constrokraft Realities LLP is at liberty to pursue its application dated 14 September 2023, Exhibit-I (page 112 of the petition), which is pending before the Joint Charity Commissioner.
- ii. The Joint Charity Commissioner is directed to decide the said application as expeditiously as possible, preferably within a period of four months.
- iii. Insofar as petition filed by respondent no.1-Chinchwad Deosthan Trust is concerned, the same is permitted to be withdrawn with liberty to the

petitioners to raise all contentions as raised in this petition and on the reliefs as prayed for in appropriate proceedings to be filed, before the Joint Charity Commissioner, Pune region. All contentions of the parties on any such proceedings are expressly kept open.

7. In this view of the matter, both proceedings are disposed of. No costs.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]