

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8509 OF 2024

Good Shepherd Convent (Bombay) Thr. its Trustee
Sister Mary Payyappilly Jose .. Petitioner
Versus
Joint Charity Commissioner .. Respondent

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- Mr. Anupam Dholakia i/by Ms. Neela Dholakia, Advocates for Petitioner.
 - Mr. C.G. Gavnekar a/w Mr. Ashutosh Gavnekar and Mr. Rohit Parab, Advocates for Respondent No.2.
 - Ms. Snehal S. Jadhav, AGP for Respondent No.1 – State.
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CORAM : MILIND N. JADHAV, J.

DATE : JULY 01, 2025

P. C.:

1. Heard Mr. Dholakia, learned Advocate for Petitioner; Mr. Gavnekar, learned Advocate for Respondent No.2 and Ms. Jadhav, learned AGP for Respondent No.1 – State.

2. On 9th June, 2025, after hearing learned Advocates for respective parties, following order was passed:-

“1. Heard Mr. Dholakia, learned Advocate for Petitioner and Mr. Bhadang, learned AGP for Respondent No.1 – State.

2. The order impugned in the present Writ Petition is appended at Exhibit “G” – page No.45 of the Petition passed under Section 36(1) (a) of the Maharashtra Public Trusts Act, 1950. Applicant is the Trust. It has moved this Court for seeking variation in the order that has been passed. According to Petitioner, market value of the subject property cannot be more than Rs.1.65 crores which has been offered by the highest bidder. However while determining the market value the Statutory Officer has considered various aspects, inter alia, the chart produced by the Government Approved Valuer S.V.

Jogalekar & Associates dated 08.06.2022 and after comparing sale instances of 3 different properties which were transacted between November 2020 and November 2021, he has arrived at a conclusion that the market value of the property can be safely enhanced to Rs. 2.35 Crores. The reasons for the same are given by the Statutory Officer in paragraph Nos.11 to 17 of the impugned order.

3. *Petitioner – Trust is trying to challenge the said order on behalf of the highest bidder. According to the learned Advocate for Petitioner the highest bidder had given a bid of Rs. 1.65 crores for the subject property and if the impugned order is sustained the highest bidder would not be in a position to accept the same. While filing the Petition, Petitioner has not impleaded the highest bidder who according to them has given the highest bid of Rs.1.65 crores. The name of the highest bidder is one Shri. Gajanan B. Deshmukh as stated in the Petition.*

4. *Petitioner is directed to implead Gajanan B. Deshmukh as Respondent No.2 in the present Petition and serve him the copy of the present Writ Petition. Amendment is permitted to be carried out forthwith. Re-verification stands dispensed with. This Court would like to know from the highest bidder as to whether he would be interested in enhancing his offer and accept the valuation stated in the order dated 10.11.2023, inter alia, with respect to valuation of the subject property.*

5. *In view of the above, issue notice to Respondent No.2. Humdast permitted.*

6. *In addition to Court notice, Petitioner is permitted to serve a copy of the Writ Petition and this order on Respondent Nos. 1 and 2 and inform him about the next date of hearing by any permissible private mode of service and file appropriate Affidavit of service with tangible proof thereof on or before the next date. Copy of the amended Petition be served on the other side.*

7. *After receiving notice, Respondent Nos. 1 and 2 are directed to take cognizance of this order and file his Affidavit-in-Reply on or before the next date, if so desired.*

8. *It is clarified that further order will be passed after hearing the Respondents on the next adjourned date.*

9. *At the request of Mr. Dholakia, stand over to **23rd June 2025.***

3. In compliance of said order the highest bidder one Shri. Gajanan B. Deshmukh has been impleaded as party respondent in the present Petition. He has filed Affidavit-in-Reply which is appended at page No.60 of the Application. Copy of the same is duly served upon the learned Advocate for Petitioner as also learned AGP. The learned AGP represents Respondent No.1 – the Joint Charity Commissioner in the present case who has passed the impugned order which is the subject matter of the petition.

4. Intervention, indulgence and consideration by the Court is *prima facie* depicted in the order dated 9th June, 2025 delineated hereinabove in paragraph Nos.2, 3 and 4 thereof. In compliance, Respondent No.2 namely Shri. Gajanan B. Deshmukh the highest bidder has filed Affidavit-in-Reply dated 26.06.2025 wherein in regard to the directions contained in paragraph No.4 of the previous order he has stated that considering his offer of Rs.1.65 crores having been made in the year 2021 and the time lapsed thereafter, he is ready and willing to increase the same by another 15% and has committed and agreed to pay an amount of Rs.1,89,75,000/- (Rupees One Crore Eighty Nine Lakhs Seventy Five Thousand Only).

4.1. Respondent No.2 - Mr. Gajanan B. Deshmukh is present in Court today at the time of passing of this order and he confirms the

above offer of Rs.1,89,75,000/- (Rupees One Crore Eighty Nine Lakhs Seventy Five Thousand Only). He is duly represented by Mr. Gavnekar.

4.2. Apart from above, Respondent No.2 has in paragraph No.8 of his Affidavit has stated that subject land in question was situated near a slum locality, the plot offered for sale is of irregular shape, part of the land is marshy land filled with water and in view of these negative factors and considering future potential and scope of development, he as the highest bidder would have to incur expenses and hence he had offered highest bid of Rs.1.65 crores which he seeks to enhance to Rs.1,89,75,000/- today.

5. As noted in the previous order the Joint Charity Commissioner has delineated and arrived at the market rate of the subject land / plot to be in the range of Rs.2.35 crores. It is *prima facie* seen that fixation of this market value of the Commissioner is merely based on the Ready Reckoner value i.e. the basic valuation register prepared by the Government in respect of ascertaining value of open land / lands whether constructed or open in a large area without adhering to the nuances and factors affecting the individual lands. Admittedly there is no valuation report considered by the Competent Authority. The land is in Karjat area, outside Mumbai and needs to be protected, preserved and kept safe from encroachment. It belongs to the Trust which runs a school in Mumbai. The Supreme

Court in a catena of decisions has held that valuation based purely on the Ready Reckoner value and basic valuation register cannot be held to be true and correct market value of the lands in valuation proceedings while valuing the land and the true and correct market value of the land is required to be ascertained and determined on the basis of its features, positive and negative factors affecting the land, comparable sales method or any other method.

6. In that view of the matter and considering the offers which are delineated hereinabove, I am of the opinion that undoubtedly the market value arrived at by the Joint Charity Commissioner will therefore have to be considered by the Court since even after four years, the highest bidder is ready and willing to honour his bid and also shown his *bonafides* to increase his bid by 15%.

7. At this juncture Mr. Dholakia, learned Advocate for Petitioner Trust would persuade the Court to consider persuading the Respondent No.2 to increase his bid upto Rs.2 crores considering various features of subject land and in view of the oral discussions which took place with the Trustees.

8. In that view of the matter, I am inclined to direct the Petitioner as also the Joint Charity Commissioner duly represented by the learned AGP to file their Affidavit-in-Rejoinder to the Affidavit-in-

Reply dated 26.06.2025 and deal with the aforesaid aspects and more specifically the contents of paragraph Nos. 8 and 9 of the Affidavit of Respondent No.2 to enable this Court to determine the present Writ Petition in accordance with law. Affidavit-in-Rejoinder is directed to be filed within a period one week from today with an advance copy of the same served on the other side.

9. The Joint Charity Commissioner shall apply his mind to the Affidavit-in-Reply filed by Respondent No.2 as also the issue of valuation of the subject land and give appropriate instructions to Ms. Jadhav, learned AGP to enable her to file Affidavit-in-Rejoinder on the next adjointed date.

10. Stand over to **8th July, 2025 (F.O.B.)**.

[MILIND N. JADHAV, J.]