



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 6139 OF 2024

Ramesh S/o Dayaram Tikar,
Aged about 65 years, occu. - agriculturist,
R/o At post Tembhurna
Tq. Khamgaon Dist. Buldhana

....PETITIONER

....VERSUS....

1. The Joint Charity Commissioner,
Amravati Region, Amravati
2. Jagruti Shikshan Va Bahuddeshiya
Sewa Sanstha,
Through its secretary - Mr. Harshad
Janardhan Hend.
Having office at Shelodi,
At post Tembhurna
Tal. Khambaon Dist. Buldhana
3. Vijaya Dyaneshwar Tikar,
Adult, Occu. - Household
R/o Bobde Colony, Shegaon Naka,
Khamgaon, Tq. Khamgaon Dist. Buldhana

....RESPONDENTS

Shri M.G. Sarda, Advocate for petitioner
Shri B.M. Lonare, AGP for respondent/State
Shri H.R. Gadhia, Advocate for respondent No.2
Shri C.R. Sharma, Advocate for respondent No. 3

CORAM : SMT. M.S. JAWALKAR, J.
DATED : 03/04/2025

ORAL JUDGMENT

. Rule. Rule made returnable forthwith.

2. Heard learned Counsel for petitioner, learned Assistant Government Pleader for respondent No.1, Shri H.R. Gadhia, learned Counsel for respondent No.2 and Shri C.R. Sharma, learned Counsel for respondent No.3, proposed purchaser.

3. Present petition is filed challenging the order passed by Joint Charity Commissioner in application No. 5/2023, under Section 36 (1) (a) of the Maharashtra Public Trusts Act, 1950, for grant of sanction to sell the property.

4. The learned Joint Charity Commissioner vide its judgment dated 02/04/2024, passed the impugned order. It is the contention of the petitioner that property which was allowed to be sold at the rate of Rs.7,11,000/- per acre, he is offering Rs.12,00,000/- per acre. Though, petitioner's contention is that in fact there is no need to sale the property, the said question can be agitated before the learned Joint Charity Commissioner.

5. The Trust as well as petitioner relied on Full Bench Decision of this Court in *Sailesh Developers and another Vs. Joint Charity Commissioner, Maharashtra, 2007(3) Mh.L.J. 717*, wherein, it is held as under :

"28.....Before passing an order of sanction or authorisation, the Charity Commissioner has to be satisfied that the trust property is required to be alienated. Once the Charity Commissioner is satisfied that the alienation of the trust property is necessary in the interest of the trust or for the benefit of the trust or for the protection of the trust, it is very difficult to accept the submission that the power of the Charity Commissioner is restricted either to grant sanction to a particular proposal of the trustees or to reject it. It is the duty of the Charity Commissioner to ensure that the transaction of alienation is beneficial to the trust and its beneficiaries. He has to ensure that the property is alienated to a purchaser or buyer whose offer is the best in all respect. It is not necessary in every case that the Charity Commissioner has to ensure that property is sold by the trustees to the person offering highest price or consideration. What is the best offer in the interest of the trust will again depend on facts and circumstances of each Case."

6. Thus, learned Counsel for Trust submits that the paramount interest of the Trust needs to be seen. After auction also they are in receipt of some offers which are more than the offer given by the petitioner.

7. In my considered opinion, as sale-deed is yet to be executed, therefore, the petitioner is at liberty to move the application to the Joint Charity Commissioner for recalling of the

order.

8. Learned Counsel for petitioner submits that within a period of four weeks the petitioner shall file the application under Section 36 of the Maharashtra Public Trust Act, to the learned Joint Charity Commissioner.

9. Accordingly, the Writ Petition is partly allowed.

10. Learned Joint Charity Commissioner is at liberty to re-appreciate whether there was any need to sale the property. It would be appropriate to again conduct the auction of the property of the Trust, if Joint Charity Commissioner is of the opinion that sale of Trust property is necessary.

11. The interim relief granted on 14/10/2024, shall remain in force for further four weeks from the passing of this order.

12. Writ Petition stands disposed of in above terms.

(SMT. M.S. JAWALKAR, J.)

Jayashree..