Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1488 OF 2026

Pratik Jitendra Shah ...Petitioner

Versus

The State Of Maharashtra Thru. G P And Ors ...Respondents

Mr. Vishal Ghosalkar, for the Petitioner.
Smt. M. S. Srivastava, AGP for the State.
Mr. Vatsal Shah, a/w Vidhi Shah, for Respondent Nos.4 to 7.

CORAM: N. J. JAMADAR, J.
DATED: 2nd FEBRUARY, 2026

Order:-

1. Heard the learned Counsel for the parties.

2. By this petition under Article 227 of the Constitution of India, the petitioner assails an order dated 3rd December, 2025, passed by the learned Joint Charity Commissioner, Mumbai, in an application for grant of sanction to sell the trust property, thereby directing respondent Nos.5 to 7, the Trustees of respondent No.4, a Public Trust, registered under the Maharashtra Public Trust Act, 1950, ("the Trust Act, 1950"), to publish a fresh public notice in newspaper inviting offers for the sale of the trust property i.e. Flat No.B-7, situated at Kutchhi Loahana Co-operative Housing Society Ltd., Nashik.

3. Respondent No.4 – Trust had invited the bids by issuing public notice in newspapers. Six bids were received. The petitioner's bid of Rs.45,00,000/- was the highest. Respondent No.4 Trust thus passed a resolution to accept the bid of the petitioner. Upon deposit of 50% of the bid amount i.e. Rs.6,75,000/-, respondent No.4 Trust filed an application under Section 36 of the Trust Act, 1951, being Application No.36 of 2022, for grant of sanction to sell the trust property in favour of the petitioner.

4. By the impugned order, the learned Charity Commissioner was persuaded to invite fresh offers opining that four years period has elapsed from the acceptance of the bid of the petitioner and, in the intervening period, the rates of the properties have increased substantially.

5. Mr. Ghosalkar, the learned Counsel for the petitioner, submitted that the Trust had followed a transparent process for sale of the trust property. The Trust had obtained valuation report which indicated that the value of the trust property was Rs.38,67,000/- and realizable value was Rs.32,86,950/-. The bid of Rs.45,00,000/- of the petitioner was substantially higher than the market value assessed by the valuer. In these circumstances, the Charity Commissioner could not have invited fresh offers. Reliance was sought to be placed on an order passed by this Court in WP/2825/2020 dated 7th July, 2022, wherein the scope of inquiry under Section 36(1)(a) of the Trust Act, 1951 was expounded.

6. The Charity Commissioner exercises *parens patriae* jurisdiction. The remit of inquiry by the Charity Commissioner under Section 36 of the Trust Act, 1950 is not restricted to accord or refuse sanction for the sale of the trust property to the person whose bid is accepted by the Trustees.

7. A Full Bench of this Court in the case of ***Shailesh Developers and another vs. Joint Charity Commissioner, Maharashtra***[1]**,** has enunciated in clear and explicit terms that 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

1 2007(3) Mh.L.J. 717.

whose offer is the best in all respects. 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.

8. The Full Bench answered the reference, *inter alia,* as under:

> "30 (i) <u>The power vesting in the Charity Commissioner under Section 36 of the Bombay Public Trust Act 1950 is not confined merely to grant or refusal of sanction to a particular sale transaction in respect of which sanction is sought under Section 36 of the said Act. The power of the Charity Commissioner extends to inviting offers from the members of the public and directing the trustees to sell or transfer the trust property to a person whose bid or quotation is the best having regard to the interest, benefit or protection of the trust.</u> Hence we declare that the decision of the Division Bench of this Court in the case of *Jigna Construction Co. Mumbai v. State of Maharashtra and Ors.* does not lay down correct law."
>
> (emphasis supplied)

9. In view of the aforesaid position in law, the submission on behalf of the petitioner that the learned Charity Commissioner was not justified in inviting fresh offers, cannot be countenanced. The reason is not far to seek. In exercise of *parens patriae* jurisdiction, it is duty of the Charity Commissioner to ensure that the sale of the property entails maximum benefit to the Trust. Thus, in a given case, the Charity Commissioner can opt for public auction or invite bids even if the Trustees have accepted the highest bid.

10. Mr. Shah, the learned Counsel for respondent Nos.4 to 7, expressed an apprehension that it may be difficult to find buyers for the subject trust property as it requires heavy repairs. Uncertainty and procedural delays would also dissuade the prospective buyers. Mr. Shah tendered affidavit on behalf of respondent Nos.4 to 7, wherein it is affirmed that the impugned order may not be in interest of the Trust and the process of sale of trust property may get delayed.

11. This Court does not find it appropriate to interfere with the impugned order as it cannot be said to be legally infirm. However, the apprehension on the part of respondent Nos.4 to 7 can be taken care of by clarifying that, if no offer in excess of the highest bid of Rs.45,00,000/-, submitted by the petitioner and accepted by respondent No.4 Trust, is received, the Charity Commissioner shall pass an appropriate order on the application sanctioning the sale in favour of the petitioner. The said course would ensure that the sale of the trust property is not delayed for an unreasonable period, even where no better offer is received.

12. In the event, a better offer is received and the Charity Commissioner accords sanction for sale in favour of another prospective purchaser, the amount deposited by the petitioner be refunded to the petitioner alongwith interest that has accrued on the said amount.

13. Subject to the aforesaid clarification, the petition stands dismissed.

[N. J. JAMADAR, J.]