2026 INSC 1278

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2026
(Arising out of SLP (C) No. 9834 of 2025)

DESTINI REALPRO DEVELOPERS LLP (FORMERLY KNOWN AS M/S FENKIN INFOTECH LLP) ...APPELLANT

VERSUS

ANIRUDDH NIKHIL MAKHECHA & ORS. ...RESPONDENTS

WITH

CIVIL APPEAL NO. OF 2026
(@ SLP (C) No. 9801 of 2025)

CIVIL APPEAL NO. OF 2026
(@ SLP (C) No. 9818 of 2025)

CIVIL APPEAL NO. OF 2026
(@ SLP (C) No. 9850 of 2025)

AND

CIVIL APPEAL NO. OF 2026
(@ SLP (C) No. of 2026
(@ Diary No. 54518 of 2025)

J U D G M E N T

ALOK ARADHE, J.

1. Leave granted.

2. Delay in filing the Special Leave Petition arising out of Diary No. 54518 of 2025 filed by Thane Municipal Corporation ('the Corporation') is condoned.

3. These appeals emanate from two judgments dated 07.03.2025 passed by the High Court[1] in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India in two writ petitions[2]. By the said judgments, the High Court has set aside the orders dated 08.07.2024 and 31.07.2024 in Application No. 51 of 2024 and Application No. 50 of 2024 respectively passed by the Joint Charity Commissioner-2, Maharashtra State, Mumbai ('the Charity Commissioner') according sanction for sale of lands of Ratanshi Premji Charitable Trust ('the Trust') and has remitted the proceedings to the Charity Commissioner for a fresh consideration. The High Court has also, in W.P. No. 1915 of 2025, annulled the registered conveyance deed dated 06.09.2024 executed in respect of the land at village Vadavali.

4. Two appeals each have been preferred by Destini RealPro Developers LLP (formerly known as M/s Fenkin Infotech LLP) ('the purchaser') and the Trust, whereas one appeal has been filed by the Corporation, which was not a party before the High Court, against the judgment passed in W.P. No. 1915 of 2025. In order to appreciate the grievance of the appellants, relevant facts need mention which are stated *infra*.

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[1] **High Court of Judicature at Bombay**
[2] **W.P. No. 1915 of 2025** and **W.P. No. 1877 of 2025**

FACTS

5. The Maharashtra Public Trusts Act, 1950 ('the Act') is an Act to regulate and to make better provisions for administration of public religious and charitable trusts in the State of Bombay. The Trust was constituted for educational, religious, medical and social purposes and is registered under the Act. The Trust is the owner of lands situate at Villages Vadavali and Owale, Taluka and District Thane. Two parcels of land are involved in these appeals, the particulars of which are as under:

(i) Land admeasuring 1,08,500 sq. mtrs. bearing Survey Nos. 82/2, 83, 84, 85, 86 and 87 at village Vadavali ('the Vadavali land'). Out of it, Survey Nos. 83 to 87, admeasuring 94,860 sq. mtrs., are reserved in the development plan for 'Shallow Water Park Reservation No. 3' and parts thereof fall in CRZ-II and CRZ-IB zones. Survey No. 82/2 admeasures 13,640 sq. mtrs. The Vadavali land is the subject matter of Application No. 51 of 2024, Writ Petition No. 1915 of 2025 and the appeals arising out of SLP (C) Nos. 9834 and 9818 of 2025 and Diary No. 54518 of 2025.

(ii) Land admeasuring 1,53,173.4 sq. mtrs. at village Owale ('the Owale land'), which falls in green zone, forest zone and eco-sensitive zone. The Owale land is the subject matter of

Application No. 50 of 2024, Writ Petition No. 1877 of 2025 and the appeals arising out of SLP (C) Nos. 9801 and 9850 of 2025.

6. The trustees in the meeting of the Trust held on 06.05.2024, resolved to sell the aforesaid lands as the same were situated on a hilly and marshy terrain, were under encroachment by persons claiming to be agricultural tenants and were also the subject matter of litigation. The Trustees further noted that income of the Trust was meagre and the Trust was unable to protect and manage the lands. The Trustees, therefore, resolved to sell the lands on 'as is where is', 'whatever there is' and 'without any recourse' basis.

7. The Trust issued public notices inviting bids which were published on 18.05.2024 in two newspapers namely, 'Free Press Journal' and 'Navakal'. The Trust obtained a valuation report with regard to the lands from Span Arch, a Government approved valuer. The said valuer in its report dated 22.05.2024 valued the Vadavali land at Rs.70,90,10,000/- and the Owale land at Rs.33,68,80,000/-. In response to the public notice for the Vadavali land, three bidders submitted their bids. The bid of the purchaser for Rs.75 crores was the highest, the other two bids were for Rs.66 crores and Rs.68 crores. In response to the public

notice for the Owale land, three bids were received and therein also the purchaser was the highest bidder with a bid of Rs.38 crores, the other two bids were for Rs.31 crores and Rs.33.50 crores. On 05.06.2024, the Trust accepted the bids of the purchaser and on 07.06.2024 agreements for sale were executed in favour of the purchaser. The purchaser undertook, by way of indemnity bonds, to remove the encroachments at its own cost.

APPLICATIONS UNDER SECTION 36(1)(a) OF THE ACT

8. The Trust thereafter approached the Charity Commissioner by filing applications under Section 36(1)(a) of the Act (Application No. 51 of 2024 for the Vadavali land and Application No. 50 of 2024 for the Owale land) seeking sanction for sale of the lands in favour of the purchaser. The Charity Commissioner called for a second valuation from one Gokhale & Associates, a government registered valuer, who valued the Vadavali land at Rs.71,25,60,000/- and the Owale land at Rs.33,67,21,800/-.

ORDERS OF THE CHARITY COMMISSIONER

9. By an order dated 08.07.2024 in Application No. 51 of 2024, the Charity Commissioner accorded sanction for sale of the Vadavali land to the purchaser for a consideration of Rs.75,05,00,000/- subject to the following conditions, *inter alia*, (a) the stamp duty and other expenses shall be borne by the purchaser; and (b) the

sale proceeds shall be kept in a long term fixed deposit in a nationalised bank of which only the interest shall be utilised for the objects of the Trust. By an order dated 31.07.2024 in Application No. 50 of 2024, the Charity Commissioner accorded sanction for sale of the Owale land to the purchaser for a consideration of Rs.38,05,00,000/- on similar conditions. In both the proceedings, the purchaser, by filing a *pursis*, enhanced its offer by Rs.5,00,000/-. A third party who had intervened in the said proceedings relating to the Owale land was given an opportunity to submit an offer, but he withdrew his application.

10. In pursuance of the sanction granted by the Charity Commissioner under Section 36(1)(a) of the Act, on 06.09.2024, a registered conveyance deed was executed in favour of the purchaser in respect of the Vadavali land. Thereafter, by a registered indenture of transfer dated 03.02.2025, the purchaser surrendered the reserved portion of the Vadavali land, i.e., Survey Nos. 83 to 87 admeasuring 94,860 sq. mtrs., to the Corporation against grant of Transferable Development Rights (TDR) and handed over possession thereof to the Corporation. Thereafter, the reservation was modified from “shallow water park reservation No. 3 to Viewing Tower / Convention Centre / CBD”.

11. After about seven months from the notices inviting bids i.e., on 18.12.2024, respondent No. 1, a former trustee filed two writ petitions (W.P. No. 1915 of 2025 in respect of the Vadavali land and W.P. No. 1877 of 2025 in respect of the Owale land) under Article 227 of the Constitution of India. In the said writ petitions, the validity of the orders passed by the Charity Commissioner under Section 36(1)(a) of the Act was challenged. On 13.02.2025, the purchaser was impleaded as respondent no. 8 in both the writ petitions. The Trust was impleaded as a party to the writ petitions, whereas the Corporation was not.

THE IMPUGNED JUDGMENTS

12. The High Court decided the writ petitions by two separate judgments delivered on the same date, that is, 07.03.2025. The High Court held as follows, (i) the Charity Commissioner failed to properly scrutinize the valuation report particularly the reduction in the value of the lands to the extent of 80% in the Ready Reckoner value in the case of the Vadavali land and to the extent of 50% in the case of the Owale land, (ii) the reduction of the area adopted as saleable, i.e., 94,860 sq. mtrs. as against 1,78,140 sq. mtrs. in the case of the Vadavali land, was not examined, (iii) the unexplained rationale behind assigning negative weightages of 60% and 20% in the case of the Vadavali land, and of 30% and

20% in the case of the Owale land, in the valuation report should have been rigorously examined, and the basis of valuation of the TDR was unclear, (iv) the alleged topographical difficulties, encroachments and pending litigation in respect of subject lands were not subjected to a probing and evidence based enquiry, (v) the orders granting sanction failed to establish *bona fide* and compelling necessity justifying alienation of lands belonging to Trust, and (vi) the process did not demonstrate transparent and objective determination of fair market value. Accordingly, by both the impugned judgments, the orders of sanction were quashed and in W.P. No. 1915 of 2025 as a 'necessary corollary', the conveyance deed dated 06.09.2024 in respect of the Vadavali land was declared *void ab initio* and annulled. The proceedings under Section 36(1)(a) of the Act, namely, Application Nos. 51 and 50 of 2024, were remitted to the Charity Commissioner for a *de novo* consideration, with a direction to decide them within six months. Hence, these appeals.

SUBMISSIONS

13. Mr. Kapil Sibal and Mr. Neeraj Kishan Kaul, learned senior counsel for the purchaser, submitted that respondent No. 1 has no locus to maintain the writ petitions as he ceased to be a trustee of the Trust on 03.12.2012 upon his resignation. It was pointed

out that father of respondent No. 1 continues to be a trustee and was a party to the decision taken by the Trust to alienate the subject lands. It was contended that respondent no. 1 is neither a trustee nor a beneficiary and is, therefore, not a 'person having interest' within the meaning of Section 2(10) of the Act. It was urged that respondent no. 1 is not a person aggrieved as he has not suffered any legal injury. It was submitted that the Act provides an efficacious remedy under Section 36(2), read with the proviso thereto, under which a sanction can be revoked only if it was obtained by fraud, misrepresentation or concealment of material facts. It was contended that after execution of the conveyance deed, the sanction could be revoked only on the ground of fraud practised on the Charity Commissioner. It was pointed out that no such plea had been raised in the writ petitions. It was urged that the writ petitions were decided on 07.03.2025 without affording an opportunity to the appellants to file a reply and the registered conveyance deed executed in favour of the purchaser had been set at naught without hearing the appellant.

14. It was contended that the High Court, in the guise of supervisory jurisdiction, had re-appreciated the material and substituted its own view. It was urged that the finding that a transparent process

by public notice had not been followed is contrary to the record, as public notices had, in fact, been issued and bids had been invited. It was submitted that two valuation reports were placed before the Charity Commissioner and the bid exceeded the amounts mentioned in both the valuation reports. It was pointed out that in the valuation report, the valuers had assigned negative weightages to the valuation to the subject lands on account of reservation, CRZ-II, CRZ-IB and hazard line. It was also pointed out that both valuers had specifically valued the TDR potential; and Survey No. 82/2 was valued separately, therefore, the finding that only 94,860 sq. mtrs. was considered is factually incorrect. It was further submitted that cancellation of a registered instrument is a relief under Section 31 of the Specific Relief Act, 1963, which could not have been granted as a 'necessary corollary' in proceedings under Article 227. It was submitted that the purchaser, acting on the sanction, had paid the stamp duty, removed the encroachers and handed over possession of a part of the land to the Corporation**.** In support of the aforesaid submissions, reliance has been placed on the decisions of this Court and the High Courts[3].

[3] **Nandi Infrastructure Corridor Enterprises Ltd.** v. **B. Gurappa Naidu, 2026 SCC OnLine SC 745; Garment Craft** v. **Prakash Chand Goel, (2022) 4 SCC 181; Jasbhai Motibhai Desai** v. **Roshan Kumar, (1976) 1 SCC 671; Navuji Lalji Vaghela** v. **State of Gujarat, 2011 SCC OnLine Guj 2426; Shree Khambhati Modh Vanik**

15. Mr. Dhruv Mehta, learned senior counsel for the Trust, submitted that the jurisdiction of the Charity Commissioner under Section 36 of the Act is limited to the extent of ascertaining whether the transaction is in the interest, benefit or for the protection of the Trust. It is submitted that the subject lands have been alienated for the benefit of the Trust through a fair and transparent process. It was submitted that the entire material leading to decision of the Trust to alienate the subject lands was placed before the Charity Commissioner, who considered the same and had passed a reasoned order which did not warrant any interference in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. It was also pointed out that Clause 11 of the Trust Deed dated 21.01.1958 empowers the trustees to sell the trust property. It was submitted that the writ petitions were disposed of at the admission stage without notice to the Trust and without hearing the Corporation, and that respondent No. 1 bypassed the remedy available under Section 36(2) of the Act. In support of the aforesaid submissions reliance has been placed on a decision of the Bombay High Court[4].

Samaj v. **State of Maharashtra, 2023 SCC OnLine Bom 2725** and **Pramod** v. **State of Maharashtra, 2025:BHC-AUG:17586**

[4] **Shri Vilas Anand Kale** v. **Joint Charity Commissioner, Nagpur, W.P. No. 1164 of 2021 (Bombay High Court, Nagpur Bench).**

16. Mr. Balbir Singh, learned senior counsel for the Corporation, supported the submissions on behalf of the purchaser and the Trust. It was submitted that the Corporation is a *bona fide* transferee of the reserved land admeasuring 94,860 sq. mtrs. under a registered indenture dated 03.02.2025, executed under the Maharashtra Regional and Town Planning Act, 1966 against grant of TDR, and is in possession thereof. The reservation has been modified for a public project. The impugned judgment, by annulling the conveyance deed, has effectively extinguished the rights of the Corporation, which was not even a party before the High Court.

17. Mr. S. Nagamuthu, learned senior counsel for respondent No. 1, supported the impugned judgments and submitted that the subject lands were undervalued, the tender process was hurried, and the Charity Commissioner failed to apply his mind. It was contended that respondent No. 1 had never resigned as trustee and his claim for reinstatement is pending before the Charity Commissioner. It was pointed out that the revenue records still reflect the name of respondent no.1 as a trustee and, being a person having a real and *bona fide* interest in the Trust, he could maintain the writ petitions. It was urged that the amount of sale consideration has not been paid to the Trust. It was further

pointed out that the cheques issued by the purchaser in respect of Vadavali land towards the balance consideration were dishonoured. It was also pointed out that the bank guarantee of Rs.74 crores was furnished by a non-banking financial company having a net worth of about Rs.3 crores, and the purchaser did not satisfy the eligibility criteria to submit the bid. It was submitted that the High Court has merely remitted the matters for fresh consideration, which causes no prejudice to the appellants. In support of the aforesaid submissions, reliance has been placed on the decisions of this Court and the Bombay High Court[5].

ANALYSIS

18. We have considered the submissions made on both sides and have perused the record.

SCOPE AND AMBIT OF SECTION 36 OF THE ACT

19. Section 36 deals with alienation of immovable property of the public trust. The relevant extract of Section 36 reads as under:-

> "**36. Alienation of immovable property of public trust-**
>
> (1) Notwithstanding anything contained in the instrument of trust-

[5] **Operation Asha** v. **Shelly Batra, (2026) 1 SCC 569; R. Venugopala Naidu** v. **Venkatarayulu Naidu Charities, 1989 Supp (2) SCC 356; Swami Shankaranand** v. **Mahant Sri Sadguru Sarnanand, (2008) 14 SCC 642;** and **Sailesh Developers** v. **Joint Charity Commissioner, 2007 (3) Mh.L.J. 717 (FB)**

(a) no sale, exchange or gift of any immovable property, and

(b) no lease for a period exceeding ten years in the case of agricultural land or for a period exceeding three years in the case of non-agricultural land or a building belonging to a public trust, shall be valid without the previous sanction of the Charity Commissioner. Sanction may be accorded subject to such condition as the Charity Commissioner may think fit to impose, regard being had to the interest, benefit or protection of the trust;

(c) if the Charity Commissioner is satisfied that in the interest of any public trust any immovable property thereof should be disposed of, he may, on application, authorise any trustee to dispose of such property subject to such conditions as he may think fit to impose, regard being had to the interest or benefit or protection of the trust.

Provided that, the Charity Commissioner may, before the transaction for which previous sanction is given under clause (a), (b) or (c) is completed, modify the conditions imposed thereunder, as he deems fit:

Provided further that, if such condition is of time limit for execution of any contract or conveyance, then application for modification of such condition shall be made before the expiry of such stipulated time.

(1A) An application seeking previous sanction of the Charity Commissioner under clause (a), (b) or (c) of sub-section (1) shall be decided within 180 days of the filing of such application, and reasons for delay, if any, shall be recorded by the Charity Commissioner.

(1B) The Charity Commissioner shall not sanction any lease for a period exceeding thirty years under the Act.

(2) The Charity Commissioner may revoke the sanction given under clause (a) or clause (b) of sub-section (1) on the ground that such sanction was obtained by fraud or misrepresentation made to him or by concealing from the Charity Commissioner, facts material for the purpose of giving sanction; and direct the trustee to take such steps within a period of one hundred and eighty days from the date of revocation (or such further period not exceeding in the aggregate one year as the Charity Commissioner may from time to time determine) as may be specified in the direction for the recovery of the property.

Provided that, no sanction shall be revoked under this section after the execution of the conveyance except on the ground that such sanction was obtained by fraud practiced upon the Charity Commissioner before the grant of such sanction.

(3) No sanction shall be revoked under this section unless the person in whose favour such sanction has been made has been given a reasonable opportunity to show cause why the sanction should not be revoked.

(4) If, in the opinion of the Charity Commissioner, the trustee has failed to take effective steps within the period specified in sub-section (2), or it is not possible to recover the property with the reasonable effort or expense, the Charity Commissioner may assess any advantage received by the trustee and direct him to pay compensation to the trust equivalent to the advantage so assessed."

20. This Court in several decisions has dealt with the scope and ambit of Section 36 of the Act. It has been held that while exercising power under Section 36(1)(a) of the Act, the Charity Commissioner has to consider three classic requirements, namely, the interest, benefit and protection of the trust. The Charity Commissioner has to be objectively satisfied that there is necessity to dispose of the property in the interest of the public trust. It is also open to the Charity Commissioner to revoke the sanction in exercise of power under Section 36(2) of the Act on the ground that sanction has been obtained by plain fraud or misrepresentation or material facts have been suppressed while obtaining sanction. The power of revocation has been conferred on the Charity Commissioner with an object to subserve the interest, benefit and protection of the trust and its property. However, the power of revocation is circumscribed, in case a conveyance deed is executed. In such a case, the sanction can only be revoked on the ground of fraud. The Trustees hold the property for the benefit of the beneficiaries and in case the Charity Commissioner accepts the necessity of alienating the trust property, the beneficiaries cannot insist that property should be sold to a person of their choice[6].

[6] **Cyrus Rustom Patel** v. **Charity Commissioner, Maharashtra State and Others, (2018) 14 SCC 761; Shri Ambadevi Sanstha and Others** v. **Joint Charity Commissioner and Others, (2019) 17 SCC 419;** and **Ganesh Ramachandra Jadhav** v. **Govardhan Sanstha (Regd) Wai Pune and Others, 2021 SCC Online SC 3263**

21. In the backdrop of the aforesaid statutory provisions and the well settled legal position, we may now advert to the orders passed by the Charity Commissioner. The Trust, along with Application No. 51 of 2024 relating to the Vadavali land, had placed on record the following documents: (i) the Trust Deed, (ii) the minutes of the meetings of the board of trustees dated 06.05.2024 and 05.06.2024, (iii) the public notices published on 18.05.2024 in 'Free Press Journal' and 'Navakal', (iv) the tender notices and the three tenders received, (v) the joint venture agreement, (vi) the undertaking-cum-indemnity bonds furnished by the purchaser, (vii) the agreement for sale, (viii) the statements of account of the Trust for the years 2021-22, 2022-23 and 2023-24 and the 7/12 extracts, (ix) the development plan remarks dated 10.05.2024 issued by the Corporation, (x) the approved revised development scheme, (xi) the letter of offer, (xii) the affidavit-in-evidence of the Trust and (xiii) the valuation reports of Span Arch and of Gokhale & Associates.

22. The Charity Commissioner, after hearing the Trust and perusing the said material, framed the point whether it would be suitable and appropriate to grant permission to sell the property.

23. On the question of necessity and the interest of the Trust, the Charity Commissioner noted that the objects of the Trust are

educational, religious, medical and social, and that Clause 11 of the Trust Deed authorises the trustees to sell the property of the Trust. It was noted that the land is situate on an uneven hillock and is marshy, which renders it inaccessible, and that various parts of it have been encroached upon by persons claiming to be agricultural tenants, who have been filing cases before the Tahsildar, Thane. The Charity Commissioner was also of the opinion that the litigation is likely to continue for years and would impose a financial burden on the Trust. He further noted that the Trust owns several properties and it is inconvenient for the trustees to protect and supervise them, to pay the taxes and to pursue the litigation in respect of encroachments, and that the income of the Trust is extremely low. It was noted that the decision was taken on 06.05.2024 by the Trust on the advice of legal consultants and chartered accountants to sell the land on 'as is where is' basis. The said decision was taken with the object that the sale proceeds be kept in fixed deposit and the interest be used for the objects of the Trust.

24. On the question of benefit to the Trust and adequacy of the price, the Charity Commissioner took note of the following facts: (i) the valuation report of Span Arch valued the land at Rs.70,90,10,000/-, (ii) in order to fetch the maximum price,

public notices were published in an English and a Marathi newspaper, (iii) three tenders were received for Rs.75 crores, Rs.66 crores and Rs.68 crores, (iv) the two lower tenders did not fulfil the terms of the tender documents, and (v) the purchaser, whose tender was the highest and compliant, deposited earnest money of Rs.1 crore. Not content with the valuation obtained by the Trust, the Charity Commissioner, to ascertain whether the price was proper, called for a second valuation from Gokhale & Associates, a government registered valuer, who valued the land at Rs.71,25,60,000/-. Upon comparing the two valuations, the Charity Commissioner recorded his satisfaction that the price was appropriate, and noted that the purchaser had further enhanced its offer by Rs.5,00,000/- to Rs.75,05,00,000/-. He also took into account the credentials of the associate of the purchaser, the undertaking of the purchaser to remove the encroachers and to bear the cost of litigation, the absence of any relationship between the trustees and the purchaser, the development plan remarks and the applicability of the coastal zone regulations, and relied on two decisions of the Bombay High Court which permit sale of encroached trust property to a purchaser who takes over the responsibility for the encroachments.

25. For the protection of the Trust, the Charity Commissioner imposed certain conditions, namely, that (i) the sale be completed within six months, (ii) the stamp duty, registration fee and all other expenses be borne by the purchaser, (iii) the sale proceeds be kept in a long term fixed deposit in a nationalised bank and only the interest thereon be used for the objects of the Trust, (iv) the principal amount of the deposit shall not be utilised, nor shall any loan be raised against it, without the prior permission of the Charity Commissioner, (v) the regulations of the Maharashtra Coastal Zone Management Authority shall apply, and (vi) a change report be filed after completion of the transaction.

26. The order dated 31.07.2024 in Application No. 50 of 2024, relating to the Owale land comprising eleven survey numbers aggregating 1,53,173.4 sq. mtrs., proceeds on the same material and on similar reasoning. The Charity Commissioner noted the valuations of Rs.33,68,80,000/- and Rs.33,67,21,800/- by the two valuers, the three tenders of Rs.38 crores, Rs.31 crores and Rs.33.50 crores, and the enhancement of the offer by the purchaser to Rs.38,05,00,000/-. He also took note of the fact that an earlier attempt of the Trust to sell the Owale land, for which sanction had been granted on 02.02.2019 in Application No. 31 of 2014, did not fructify as the then purchaser failed to complete

the transaction. Further, a third party who had intervened in the proceedings was given an opportunity by the Trust to submit a tender, but he withdrew his application on 26.07.2024. In respect of the Owale land as well, the Charity Commissioner imposed conditions similar to those incorporated in the order granting sanction in respect of Vadavali land.

27. From perusal of the order dated 08.07.2024 passed by the Charity Commissioner in respect of Vadavali land, it is evident that the Charity Commissioner took the following considerations into account while granting sanction: (i) the topography of the lands, the encroachments and the pending litigation; (ii) the meagre income of the Trust and its inability to protect and manage the lands; (iii) the resolution of the trustees dated 06.05.2024; (iv) the publication of public notices in two newspapers and the receipt of three bids; (v) the valuation report of Span Arch and, in order to test its correctness, the second valuation report of Gokhale & Associates; (vi) the fact that the bid of the purchaser exceeded both the valuations; and (vii) the undertaking of the purchaser to remove the encroachers at its own cost. The Charity Commissioner also imposed conditions to secure the sale proceeds for the objects of the Trust. The order granting sanction in respect of Owale land proceeds on the same lines as the order

passed in respect of the Vadavali land. The Charity Commissioner, while dealing with Owale land, in addition, recorded that the intervenor was given an opportunity to make an offer, which he did not avail.

28. Thus, it is evident that the Charity Commissioner has adverted to three classic requirements, namely, interest, benefit and protection of the trust and has objectively satisfied himself that there is a need to dispose of the property belonging to the Trust which is in the interest of the public trust. The Charity Commissioner on meticulous appreciation of material available before him, has acted in consonance with the parameters enunciated in Section 36(1)(a) of the Act.

SCOPE AND AMBIT OF THE POWERS UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

29. The scope and ambit of exercise of power under Article 227 of the Constitution of India has been examined and explained in a number of decisions of this Court. A Constitution Bench of this Court[7] has held that power of superintendence conferred by Article 227 is to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts within the bounds of their authority and not for correcting mere errors.

[7] **Waryam Singh & Anr.** v. **Amarnath & Anr., (1954) 1 SCC 51**

A two-Judge Bench of this Court[8] has held that the exercise of power under Article 227 is restricted to cases of serious dereliction of duty and flagrant violation of principles of law of justice or where if the High Court does not interfere, a grave injustice remains uncorrected. It is trite that while acting under Article 227, the High Court does not exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error which is not apparent on the face of record. The High Court can set aside the findings of an inferior court or tribunal if they are based on no evidence or the finding is so perverse that no reasonable person can possibly come to such a conclusion which the Court or Tribunal has arrived at. Another two-Judge Bench of this Court[9] again considered the scope and ambit of Article 227 and summarised the principles on exercise of jurisdiction under Article 227. Similar view has been reiterated by another two-Judge Bench of this Court[10] and it has been held that reasoned decision taken on an elaborate consideration of relevant facts cannot be interfered with in exercise of supervisory jurisdiction under Article 227 of the Constitution. The principles with regard to scope of exercise

[8] **Estralla Rubber** v. **Dass Estate (P) Ltd., (2001) 8 SCC 97**
[9] **Shalini Shyam Shetty** v. **Rajendra Shankar Patil, (2010) 8 SCC 329**
[10] **Garment Craft** (supra)

of power under Article 227 of the Constitution again have been recently summarised by a two-Judge Bench of this Court.[11]

30. In the backdrop of aforesaid well-settled scope of exercise of power under Article 227, we may advert to the impugned judgments. The High Court has failed to appreciate that a reasoned decision was taken on an elaborate consideration of relevant facts by the Charity Commissioner which did not call for any interference in exercise of supervisory jurisdiction under Article 227 of the Constitution. The High Court has virtually acted like an Appellate Court while examining the validity of the decision of the Charity Commissioner.

31. The High Court has clearly exceeded its powers under Article 227 and the judgments passed by it suffer from the following infirmities: (i) it did not refer to the process adopted by the Trust to sell the property, namely, a well-considered decision by its trustees to alienate the properties, issuance of public notices, the multiple bids received and the valuation report obtained by the Trust to ascertain the market value of the properties, while recording a finding that the sale ought to have been conducted through a transparent and competitive process. The finding that a transparent process by public notice was not followed is

[11] **Nandi Infrastructure Corridor Enterprises Ltd.** (supra)

contrary to the record. (ii) The High Court failed to take into consideration that the negative weightages applied by the valuers were on account of the reservation, the coastal regulation zone, the green zone and the forest zone, which are matters within the domain of experts. (iii) Insofar as the Owale land is concerned, the High Court proceeded on the footing that negative weightages of 30% for green zone and 20% for litigation were applied, whereas the valuation report applies a negative weightage of 50% to the plots in green zone and of 75% to the plots in forest zone. The finding, therefore, does not even conform to the record. (iv) The High Court itself accepted that the topography of the land, the encroachments and the expenses of litigation might constitute valid considerations for sale, yet faulted the Charity Commissioner for not holding a probing inquiry. (v) The finding that the basis of valuation of TDR is unclear, is factually incorrect, as both the valuers have specifically valued the TDR potential of the land. (vi) The High Court ought to have appreciated that Section 36 does not contemplate a trial and the Charity Commissioner is required to arrive at his satisfaction on the material placed before him.

32. The High Court ought to have appreciated that it is neither exercising original jurisdiction nor an appellate jurisdiction but

jurisdiction of superintendence. The High Court erred in not appreciating that the orders of the Charity Commissioner were passed by taking into account the interest of the Trust and the Charity Commissioner had objectively satisfied himself that there is a necessity to dispose of the property in the interest of the Trust. Thus, the High Court, in our opinion has clearly exceeded the scope of its jurisdiction under Article 227 of the Constitution.

33. The High Court ought to have also appreciated that the registered conveyance deed with respect to Vadavali land was acted upon and the purchaser had already transferred a part of the land to the Corporation which was not impleaded as a respondent in the writ petitions. The High Court failed to appreciate that under the *proviso* to Section 36(2) of the Act, after the execution of the conveyance deed, a sanction cannot be revoked except on the ground of fraud practised on the Charity Commissioner. The respondent no. 1 had not taken any such plea and therefore, the High Court ought not to have set at naught the conveyance deed. The High Court ought to have appreciated that the respondent no. 1 had a remedy under Section 36(2) to approach the Charity Commissioner for seeking revocation of sanction, which he did not avail. On this ground alone, the High Court ought not to have entertained the writ petitions.

34. Insofar as the other contentions of respondent No. 1 relating to non-payment of the balance consideration, dishonour of cheques, the nature of the guarantee, the eligibility of the purchaser, the constitution of the board of trustees, the title to the Owale land and the alleged contradictory stand of the Trust, are concerned, suffice it to say that the High Court has not recorded any finding on any of these aspects, and except the eligibility of the purchaser and the nature of the guarantee, the same were not even urged before the High Court. Therefore, we are not inclined to examine the same for the first time in these appeals.

INTERLOCUTORY APPLICATIONS FOR AMENDMENT

35. I.A. Nos. 164280 and 164282 of 2026 have been filed in the appeals arising out of SLP (C) Nos. 9801 and 9834 of 2025 respectively, seeking amendment of the cause title on account of change of name of the appellant from M/s Fenkin Infotech LLP to Destini RealPro Developers LLP, which has been approved by the Registrar of Companies with effect from 02.07.2025. The applications are allowed. The cause title shall stand amended accordingly. The address shall also stand changed to 'A-Wing, 2nd Floor, Tika No.-16, C.S. No.-39, Ram Maruti Road, New English School, Thane-400602, Maharashtra'.

CONCLUSION

36. In view of the preceding analysis, the impugned judgments dated 07.03.2025 passed in W.P. No. 1915 of 2025 and W.P. No. 1877 of 2025 cannot be sustained in the eye of law. They are accordingly quashed and set aside. The orders dated 08.07.2024 in Application No. 51 of 2024 and 31.07.2024 in Application No. 50 of 2024 passed by the Charity Commissioner are restored. Consequently, the registered conveyance deed dated 06.09.2024 and the indenture of transfer dated 03.02.2025 shall also stand restored.

37. In the result, the appeals are allowed. There shall be no order as to costs. Pending application(s), if any, stand disposed of.

.....J.
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.
[ALOK ARADHE]

NEW DELHI;
NOVEMBER 26, 2026.