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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1736 OF 2020  
WITH  
INTERIM APPLICATION NO.2281 OF 2020  
WITH  
INTERIM APPLICATION NO.107 OF 2026

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Bagasarwala Property LLP ... Petitioner  
V/s.  
The Joint Charity Commissioner  
Worli, Mumbai 400 018 & Ors. ... Respondents

WITH  
INTERIM APPLICATION (ST.) NO.92918 OF 2020  
IN  
WRIT PETITION NO.1736 OF 2020

Vinod Srikrishna Poddar ... Applicant  
**In the matter between**  
Bagasarwala Property LLP ... Petitioner  
V/s.  
The Joint Charity Commissioner  
Worli, Mumbai 400 018 & Ors. ... Respondents

WITH  
INTERIM APPLICATION NO.110 OF 2026  
IN  
WRIT PETITION NO.1736 OF 2020

Vivek Vinod Poddar ... Applicant  
**In the matter between**  
Bagasarwala Property LLP ... Petitioner  
V/s.  
The Joint Charity Commissioner  
Worli, Mumbai 400 018 & Ors. ... Respondents



Mr. Girish Godbole, Senior Advocate with Mr. Neveille Mukherji and Mr. Asim Tirmizi i/by RJD & Partners for the petitioner.

Smt. V.R. Raje, AGP for respondent Nos.1 and 8-State.

Mr. Veerendra Tulzapurkar, Senior Advocate with Mr. Durgesh Kulkarni, Mr. Durgesh Rege and Mr. Dharmendra Sinha for respondent Nos.2(a) and 2(b).

Mr. Prasad Dani, Senior Advocate i/by Z.A.K. Najam-Es-Sani for respondent Nos.3 to 7.

**CORAM : AMIT BORKAR, J.**

**RESERVED ON : JUNE 8, 2026**

**PRONOUNCED ON : JUNE \_\_, 2026**

**JUDGMENT:**

1. By filing the present petition under Articles 226 and 227 of the Constitution of India, the petitioner has questioned order dated 29 January 2020 passed by respondent No.1. By the said order, respondent No.1 cancelled the earlier permission granted by the Office of the Joint Charity Commissioner on 24 May 2018. Respondent No.1 further directed respondent Nos.4 to 7, who are trustees of respondent No.3-Trust, to return to the petitioner entire amount of Rs.6,53,00,000/- paid in relation to the property along with yearly rent of Rs.30,000/-, if such amount had been paid. Respondent No.1 also directed the Trustees to take steps for bringing the property back in the records of the Trust and to make necessary entries regarding the same within 180 days from the date of the impugned order.



2. The facts giving rise to the present proceedings, according to the petitioner, may briefly be stated. Respondent No.3-Trust had executed a lease deed concerning the property on 5 April 1917. Thereafter, an assignment deed relating to the same property came to be executed on 6 December 1932. According to the petitioner, the Trust later issued a notice dated 30 August 2016 stating that the lease and assignment rights in respect of the property stood terminated. It is further the case of the petitioner that on 27 April 2018 the Trust approached the Joint Charity Commissioner seeking permission to grant the property to the petitioner on lease for a period of 29 years. The proposal also contained a provision giving the petitioner a right to renew the lease from time to time and also a right to purchase reversionary rights relating to the property. After considering the proposal, the Joint Charity Commissioner granted permission on 24 May 2018. Thereafter, a lease deed came to be executed in favour of the petitioner on 18 September 2018. Soon thereafter, by a letter dated 20 September 2018, the petitioner exercised the option available under the agreement for purchase of reversionary rights. As a result, a conveyance deed came to be executed by the Trust in favour of the petitioner transferring such rights.

3. The record further shows that thereafter the Trust submitted a Change Report seeking deletion of the property from the Trust Register and other trust records. The said Change Report was accepted by the competent authority on 12 October 2018. Subsequently, on 14 December 2018, respondent No.2 initiated proceedings before respondent No.1 under Section 36(2) of the



Maharashtra Public Trusts Act seeking cancellation of the sanction granted by the Joint Charity Commissioner on 24 May 2018. The petitioner opposed the said proceedings by filing an Affidavit in Reply on 25 February 2019. Thereafter, respondent No.2 filed an Affidavit in Rejoinder on 18 March 2019. The petitioner then filed an Affidavit in Sur-Rejoinder on 20 August 2019 and placed additional material on record opposing the prayer seeking cancellation of the sanction.

4. By the impugned order dated 29 January 2020, respondent No.1 allowed the application for revocation and cancelled the sanction granted under the order dated 24 May 2018. The main reasons recorded by respondent No.1 were that the termination notice dated 30 June 2016 issued by the Trust to the earlier lessee, Shri Brijmohan Sharma, alleging breach of lease conditions, was not placed before the Joint Charity Commissioner at the time of obtaining sanction. Respondent No.1 further observed that the public advertisement inviting offers did not mention the proposed right of renewal of lease or the proposed right relating to purchase of reversionary rights and therefore persons interested in the process were not given complete information. It was also observed that the valuer was not supplied with all necessary particulars required for assessing the proper lease value or sale value of the property. Respondent No.1 additionally recorded a finding that the Trust had not shown any need for dealing with the property in the manner proposed. According to respondent No.1, the entire process was completed in unusual haste. On the basis of these circumstances, respondent No.1 concluded that the sanction



granted by the Joint Charity Commissioner was liable to be cancelled.

5. Mr. Godbole, learned Senior Counsel appearing for the petitioner, submitted that the application filed by respondent No.2 under Section 36(2) of the Maharashtra Public Trusts Act itself was not maintainable. According to him, respondent No.2 was neither a trustee nor a person having any legally recognised interest in the management, benefit, or welfare of the Trust. He therefore argued that respondent No.2 had no right to invoke powers under Section 36(2). Learned Senior Counsel further submitted that respondent No.1 failed to appreciate that respondent No.2 had approached the authority only as a heir and legal representative of the earlier assignee and was attempting to advance a claim against the interest of the Trust. According to him, any attempt by the earlier assignee or his successors to assert rights contrary to the interests of the Trust could not be regarded as an action taken for the benefit of the Trust. He submitted that such a person could not be permitted to invoke Section 36(2) merely to defeat a transaction entered into by the Trust and already approved by the Competent Authority. It was, therefore, argued that respondent No.1 ought not to have entertained and allowed the application filed by respondent No.2.

6. Mr. Godbole further submitted that respondent No.1 committed a serious error in recording findings regarding fraud, suppression, and concealment. According to him, the allegations of fraud made by respondent No.2 were not supported by proper pleadings or evidence. He submitted that the application seeking



revocation did not contain specific particulars of fraud as required by law and that merely using the word "fraud" was not sufficient. Learned Senior Counsel argued that despite receiving adequate opportunity, respondent No.2 failed to produce any oral or documentary evidence showing fraud or concealment. In absence of such evidence, respondent No.1 could not have concluded that the sanction was obtained by fraud or suppression of material facts. He further submitted that all important terms of the proposed transaction were clearly mentioned in the tender documents. The advertisements published in local newspapers specifically directed interested persons to those tender documents and therefore the process was completely transparent. Learned Senior Counsel also relied upon the valuation report and submitted that valuation was carried out according to accepted market principles. According to him, the valuation reflected the price which a willing purchaser would pay to a willing seller in an open market transaction where both parties were aware of all relevant circumstances. He therefore submitted that the valuation exercise was fair and based upon recognised principles. It was further argued that the sanction application itself disclosed that the earlier tenancy had been terminated and that after such termination the Trust had become responsible for maintenance, preservation, taxes and other liabilities relating to the property. According to him, these liabilities created a financial burden upon the Trust and therefore constituted a valid reason for entering into the transaction. Since all these facts were disclosed before the authority, learned Senior Counsel submitted that there was neither



suppression nor any fraudulent conduct in obtaining the sanction.

7. Mr. Godbole further submitted that respondent No.1 had proceeded on an incorrect understanding of the concept of reversionary rights. According to him, the impugned order wrongly proceeds on the basis that grant of reversionary rights automatically amounted to transfer or sale of trust property without sanction and that such rights could never result in deletion of the property from trust records. Learned Senior Counsel submitted that such reasoning was wholly misplaced. According to him, the Trust had clearly informed the Charity Commissioner that the earlier leasehold rights had already been terminated, and the proposed transaction proceeded on that basis. He submitted that whether such termination was valid or invalid was an independent question which could be decided only in appropriate proceedings before a competent forum. According to him, respondent No.1 travelled beyond the limited scope of inquiry under Section 36(2) by examining issues relating to legality of the termination notice and continuation of tenancy rights. Such questions, according to learned Senior Counsel, had no place in proceedings under Section 36(2). He therefore argued that the impugned order suffers from a serious legal error in treating disputes relating to tenancy and reversionary rights as grounds for cancellation of the sanction.

8. On the other hand, Mr. Tulzapurkar, learned Senior Counsel appearing on behalf of respondent Nos.2(a) and 2(b), supported the impugned order. He submitted that the respondents possess ownership rights in the structure standing upon the land in question. According to him, the option for renewal of lease granted



to the proposed lessee was never disclosed in the public advertisement which formed the basis of the tender process, and ultimately resulted in grant of sanction under Section 36(1) of the Bombay Public Trusts Act. He argued that failure to disclose such an important condition deprived other interested persons of an opportunity to make informed offers and therefore the process lacked transparency. Learned Senior Counsel further submitted that the Trust itself had no authority to create the lease and therefore the Charity Commissioner could not have granted permission for leasing property in respect of which respondent No.2 continued to claim leasehold rights. According to him, if the permission to grant lease itself was invalid, then the grant of reversionary rights flowing from it would also become invalid. He further submitted that rights of a lessee do not automatically come to an end merely because a termination notice is issued and such rights continue unless lawfully determined in accordance with law. Therefore, according to him, the Trust could not have proceeded on the assumption that the earlier tenancy rights had ceased. He also submitted that respondent No.1 rightly found lack of transparency in the transaction and correctly concluded that important facts were not disclosed while obtaining sanction. Learned Senior Counsel further supported the findings relating to valuation and argued that the amount received by the Trust was much lower than the value which ought to have been realised. According to him, respondent No.1 correctly held that the transaction was not in the best interest of the Trust. He also submitted that reversionary rights could not be treated as giving



unrestricted power to transfer trust property without obtaining proper sanction. On these grounds, he submitted that the writ petition deserves to be dismissed.

9. Mr. Dani, learned Senior Counsel appearing for respondent Nos.3 to 7, adopted the submissions advanced on behalf of the petitioner and supported the challenge to the impugned order. Inviting attention to the original sanction order passed under Section 36(1), he submitted that the Charity Commissioner had examined all relevant facts before granting permission. According to him, the authority had specifically considered the earlier lease arrangements under agreements dated 5 October 1970 and 6 December 1972 as well as proceedings pending before the Court of Small Causes. Learned Senior Counsel submitted that the Charity Commissioner was fully aware of disputes concerning the property and nevertheless granted sanction after considering the overall circumstances. He further submitted that the decision of the Trust to deal with the property on an “as is where is basis, subject to encumbrances” was clearly mentioned in the tender documents and was taken into consideration while granting approval. Referring to paragraph 35 of the sanction order, he submitted that the Trustees had appointed a Government approved valuer for determining the value of the property and that the reserve price was fixed only after considering the valuation report and structural audit reports relating to the condition of the building. According to him, the Charity Commissioner examined the nature of the property, disputes, encumbrances and other defects affecting it before arriving at the conclusion that the transaction was



beneficial to the Trust. Learned Senior Counsel submitted that even the leasehold rights claimed by respondent No.2 and the litigation arising therefrom had been specifically brought to the notice of the Charity Commissioner. In such circumstances, it could not be said that the sanction had been obtained by suppressing material facts or by practising fraud upon the authority. He therefore submitted that the findings recorded in the impugned order are contrary to the record and that the writ petition deserves to be allowed.

**REASONS AND ANALYSIS:**

10. Having heard the learned Senior Advocates appearing for the respective parties at considerable length and after careful consideration of pleadings, documents placed on record, proceedings concerning grant of sanction and the impugned order, this Court is of the view that though several factual disputes and rival contentions have been raised, the controversy which falls for determination is required to be examined within the limited statutory scheme of Section 36(2) of the Maharashtra Public Trusts Act. Section 36 reads as under :

**“Section 36. Alienation of immovable property of public trust.—**

(1) Notwithstanding anything contained in the instrument of trust—

(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) The Charity Commissioner shall not sanction any lease for a period exceeding thirty years under this 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) .....

(5) .....”

11. Section 36 of the Maharashtra Public Trusts Act, 1950 appears to have been made for protecting immovable properties belonging to public trusts. The idea behind the provision seems to be that properties which are kept for charitable and public purposes should not be sold, transferred or otherwise dealt with in a manner which may cause loss to the trust. The law appears to recognise that such properties are held for larger public purposes. For that reason, the legislature has placed supervisory control in the hands of the Charity Commissioner. The provision further contemplates that certain transactions relating to trust property cannot become legally valid unless prior permission of the Charity Commissioner is obtained. The purpose behind requiring such prior sanction appears to be to ensure that trust property is not parted with in a hurried manner. The Charity Commissioner is therefore expected to examine whether the proposed transaction is in the interest of the trust and whether it would protect the trust



from possible loss. The intention of the provision seems to be that before any important decision concerning trust property is taken, the matter should undergo scrutiny by charity commissioner. Such scrutiny is intended to ensure that the transaction is beneficial to the trust, protects the trust property and serves the objects for which the trust has been created. The provision therefore acts as a safeguard so that trust properties are not dealt with in a manner detrimental to the welfare of the trust.

**12.** Sub-section (1) of Section 36 makes it clear that notwithstanding anything contained in the instrument creating the trust, no sale, exchange or gift of immovable property belonging to a public trust can be effected without obtaining previous sanction of the Charity Commissioner. Similarly, any lease exceeding the statutory period prescribed therein also requires prior approval. While considering such proposal, the Charity Commissioner is not expected merely to accord approval mechanically. The provision confers discretion upon the authority to impose such terms and conditions as may be considered necessary having regard to the interest, benefit, and protection of the trust. Clause (c) further authorises the Charity Commissioner to permit disposal of trust property if he is satisfied that such course is required in the interest of the trust. Therefore, at the stage of grant of sanction, the authority is required to consider whether the proposed transaction is beneficial to the trust, whether the trust is receiving adequate value for the property proposed to be dealt with and whether safeguards exist so that trust property remains protected from possible loss.



13. Sub-section (2), authorises revocation of a sanction already granted. At the same time, the legislature has restricted the exercise of such power to limited contingencies alone. Revocation can be resorted to only where the sanction has been obtained by practising fraud upon the authority, by making misrepresentation or by concealing facts which were material for the purpose of grant of sanction. The language used by the legislature is specific. The jurisdiction under sub-section (2) is therefore not appellate in nature. It does not permit the Charity Commissioner to reconsider the correctness of the original decision merely because another view may also be possible on the same material. Nor does it authorise a fresh assessment of the transaction. Once sanction has been granted after consideration of the relevant material, the inquiry under Section 36(2) becomes confined to examining whether the sanction itself was obtained by fraud, misrepresentation, or suppression of material facts. The scope of such inquiry is thus narrow and incapable of being converted into a rehearing on merits.

14. The proviso to sub-section (2) assumes significance while understanding the legislative scheme. The legislature has provided that once a conveyance has been executed pursuant to a sanction granted under Section 36(1), such sanction cannot thereafter be revoked except on the ground that fraud had been practised upon the Charity Commissioner before the grant of sanction. This proviso indicates a legislative intention that transactions which have already attained completion should achieve finality. A transaction cannot be unsettled merely because certain



irregularities are later alleged or because another authority may have formed a different opinion regarding the desirability of such transaction. The consequence flowing from the proviso is that after execution of the conveyance, the scope of inquiry becomes restricted. At that stage, the only question which survives for consideration is whether fraud was practised upon the authority while obtaining sanction. However, once the conveyance is executed, such considerations by themselves cannot furnish a basis for revocation unless they establish that the sanction was obtained by practising fraud upon the Charity Commissioner.

15. A combined and harmonious reading of sub-sections (1), (2) and the proviso thereto would show that the statute contemplates two separate jurisdictions to be exercised by the Charity Commissioner. The first is the jurisdiction relating to grant of sanction. While exercising such jurisdiction, the authority is required to examine the necessity of the transaction, its desirability, the adequacy of the consideration proposed and the overall benefit likely to accrue to the trust. The second jurisdiction relates to revocation of sanction. This latter jurisdiction is considerably narrower. It is not intended to undertake a fresh scrutiny of the earlier sanction order. The inquiry is confined to deciding whether the sanction was obtained by fraud, misrepresentation, or concealment of material facts.

16. In the present case, it is not in dispute that sanction under Section 36(1) came to be granted on 24 May 2018. It is undisputed that pursuant thereto a Deed of Lease was executed on 18 September 2018 and thereafter a Deed of Conveyance also



came to be executed in favour of the petitioner. Thus, by the time the impugned order came to be passed, the transaction had culminated into execution of assignment of lease rights. In such circumstances, the jurisdiction of respondent No.1 could have been exercised only if there existed material indicating that the sanction dated 24 May 2018 had been obtained by practising fraud upon the Charity Commissioner. Consequently, the legality and sustainability of the impugned order must be examined within the statutory parameters of Section 36(2) and the proviso and not by importing considerations which properly fall for examination at the stage of grant of sanction under Section 36(1) of the Act.

17. The submission advanced by Mr. Godbole that respondent No.2 lacked locus to maintain proceedings under Section 36(2) requires consideration. The contention proceeds on the basis that respondent No.2 is neither trustee nor person claiming through the Trust and, on the contrary, asserts rights adverse to the Trust by claiming succession to interests of the erstwhile assignee. There appears force in the argument that proceedings under the Maharashtra Public Trusts Act are intended for protection of trust property and not for advancement of claims hostile to the Trust itself. However, upon careful examination of Section 36(2), this Court is unable to find any statutory restriction prohibiting a person other than a trustee from bringing relevant facts to the notice of the Charity Commissioner. The Legislature has not employed language restricting initiation of such proceedings exclusively to trustees, beneficiaries, or persons concerned with administration of the Trust. In such circumstances, it may not be



permissible in law to reject proceedings merely because respondent No.2 claims through a former lessee. However, the matter cannot end there. Maintainability of proceedings and correctness of allegations raised therein are distinct. Even assuming that respondent No.2 was entitled to place material before the authority, the burden still remained upon him to establish existence of grounds contemplated under Section 36(2). The provision does not permit revocation proceedings to become forum for adjudication of title disputes, tenancy disputes, succession claims or rival assertions regarding possession. The legislative focus remains confined to fraud, misrepresentation, and concealment of material facts. Therefore, though this Court is not inclined to accept the objection regarding locus, the submission highlights necessity of ensuring that the enquiry remains within statutory limits and does not become an indirect method for deciding disputes outside the scope of Section 36(2).

**18.** Coming to the allegation of fraud, this Court finds substance in the submissions advanced on behalf of the petitioner. Fraud is not a matter which can be lightly inferred. It is serious allegation because a finding of fraud carries serious consequences. Courts have repeatedly held that fraud vitiates even solemn proceedings. However, because of its serious character, law insists upon strict pleadings and proof. Fraud cannot be founded upon suspicion. It also cannot be presumed merely because another authority, on same material, may take a different view. The person alleging fraud must identify the representation alleged to be false, the person making such representation, the manner in which it was



false, the intention behind such conduct and the connection between such deception and the order obtained. Examined from this angle, the application seeking revocation does not appear to contain particulars expected in a case alleging fraud. The allegations remain general in nature and lack necessary particulars. More importantly, despite extensive arguments advanced before this Court, no material has been produced to show that trustees withheld information with intention of misleading the Charity Commissioner. The impugned order proceeds upon inferences drawn from alleged omissions. Such circumstances may justify scrutiny at the stage of grant of sanction. However, they cannot by themselves amount to proof of fraud. Section 36(2) requires clear establishment of fraudulent conduct. The provision does not authorise revocation merely because doubts are subsequently entertained regarding prudence of the transaction. Jurisdiction under the provision becomes available only when fraud, misrepresentation, or concealment in legal sense stands established. In the present matter, this essential requirement remains unfulfilled.

19. Respondent No.1 has attached significance to alleged suppression of the termination notice dated 30 June 2016 issued to the erstwhile lessee. There can be no dispute that the notice was a relevant document. Equally, documents relating to prior tenancy rights, disputes concerning occupation and earlier dealings affecting trust property are matters having bearing upon decision-making process. However, the statute does not treat every non-disclosure as fraud. There exists a distinction between omission to



disclose a relevant fact and fraudulent concealment of a material fact. The former may amount to irregularity. The latter necessarily requires withholding of information with intention to deceive the authority. Upon examination of the original sanction order and material available before the authority, it becomes apparent that the Charity Commissioner was conscious of existence of disputes surrounding the property. The order itself records reference to earlier transactions, pending proceedings and encumbrances affecting the property. The property was never projected as one free from litigation or complications. On the contrary, the authority appears to have proceeded with awareness that disputes existed concerning the property. In such circumstances, mere non-production of one additional document cannot automatically justify a finding of fraud. To sustain such conclusion, there must exist material demonstrating that the document was withheld because its disclosure would have materially altered the decision making process. No such material is forthcoming. The impugned order appears to infer concealment solely from absence of production of the notice. However, inference cannot take place of proof. Once it is shown that the authority was already aware of nature of disputes affecting the property, omission to produce one particular notice assumes a different character. At the highest, it may amount to an irregularity. It may even justify criticism. Yet, in absence of further material, it cannot be elevated to level of fraud contemplated under Section 36(2).

**20.** Mr. Tulzapurkar submitted that respondent No.2 and his predecessors were having ownership rights in the structure



standing on the land and also argued that the option of renewal given to the petitioner was not mentioned in the newspaper advertisement. These submissions raise questions regarding fairness in dealing with trust property. Since trust property is held for charitable purposes, transparency in such transactions is expected. However, the issue before this Court is not whether the process could have been done in a better manner or whether more details could have been disclosed in the advertisement. The real question is whether these alleged deficiencies are sufficient to show fraud upon the Charity Commissioner. From the record, it appears that the detailed tender documents contained the terms and conditions governing the transaction and those documents formed part of the sanction proceedings. Thus, the Charity Commissioner was not acting only on the basis of the newspaper advertisement. The advertisement was merely for inviting interested persons to participate, whereas the actual terms of the transaction were contained in the tender papers placed before the authority. It may be true that a clear advertisement could have avoided future controversy. However, every defect in an advertisement cannot automatically mean fraud. Section 36(2) does not say that sanction can be revoked whenever some procedural lapse is noticed. The law requires proof of deception and concealment. Such proof is not seen from the material placed before this Court. Therefore, though the submission regarding transparency cannot be brushed aside entirely, it does not provide sufficient basis for revoking a transaction which already stands completed.



**21.** The further argument that the Trust itself had no authority to grant the lease and therefore the Charity Commissioner could not have granted sanction also does not take the matter much further. In substance, the argument questions the correctness of the original sanction order itself. It seeks examination of whether the Trust was justified in proceeding on the basis that the earlier tenancy had come to an end and whether respondent No.2 continued to possess enforceable rights in respect of the property. These are important questions. However, they belong to a different area of law. They concern rights arising under tenancy law and property law and involve examination of legal claims between parties. Such questions can be decided by a competent forum in appropriate proceedings. Proceedings under Section 36(2) are not meant for deciding such disputes unless those disputes directly establish fraud, misrepresentation, or concealment. If every dispute regarding validity of termination notice or continuation of tenancy rights is treated as a sufficient ground for revocation, then the limited jurisdiction under Section 36(2) would become an appellate jurisdiction against sanction order. Such does not appear to be the intention of the legislature. The inquiry under Section 36(2) is much narrower. Therefore, while the submission may be relevant in some other proceeding, it does not support the case for revocation under Section 36(2).

**22.** Respondent No.1 has also relied considerably upon the alleged non-disclosure of renewal rights and reversionary rights. This Court is unable to accept that such circumstance by itself establishes fraud. The material available on record indicates that



the transaction was based on the footing that the earlier tenancy had been terminated and that the property continued to be affected by dispute. The sanction application as well as the tender documents formed part of the record before the authority. In such circumstances, it becomes difficult to hold that the Charity Commissioner was unaware of the nature of the proposed transaction. The reasoning adopted in the impugned order appears to proceed on the basis that every omission must amount to suppression. However, the law does not proceed on such assumption. The statute requires proof of concealment having a direct bearing on the grant of sanction. Unless it is shown that the alleged omission had such impact that the sanction would probably not have been granted if the fact had been disclosed, revocation cannot be sustained. No such material has been demonstrated in the present case.

**23.** The valuation aspect also does not persuade this Court to uphold the impugned order. The record shows that a Government approved valuer had been appointed, and a valuation report was prepared after taking into consideration the condition of the building. The authority granting sanction had before it not only the valuation report but also material regarding disputes, encumbrances, and liabilities affecting the property. After considering all these factors, the Charity Commissioner proceeded to grant sanction. Once such exercise had been undertaken, it is not possible to hold that a later disagreement regarding valuation establishes fraud. Valuation involves estimation. Different valuers may arrive at different figures depending upon the factors



considered by them. The legislature appears to have recognised these realities. Therefore, even if it is assumed that another valuation could have produced a different figure, that by itself would not establish fraud. Inadequacy of consideration becomes relevant only when it is connected with fraud, misrepresentation or concealment. No such connection has been established in the present case. What the impugned order effectively does is to substitute a view regarding valuation in place of the view accepted at the stage of sanction.

**24.** This Court also finds considerable substance in the submission advanced by Mr. Godbole regarding the treatment of reversionary rights in the impugned order. The reasoning adopted by respondent No.1 appears to proceed on the assumption that grant of reversionary rights was itself impermissible. In the opinion of this Court, reversionary rights form part of arrangements which may arise in property transactions and whether such rights could be granted and on what conditions were matters required to be examined at the stage of sanction itself. The authority granting sanction was expected to consider the overall nature of the proposed transaction and the record indicates that such exercise was undertaken. Once sanction had been granted after consideration of those aspects, it was not open to the authority exercising powers under Section 36(2) to revisit the same issue merely because another view appeared possible. Such an approach would convert revocation proceedings into a fresh examination of the merits of the sanction. The statutory scheme does not contemplate such a course. The jurisdiction under Section 36(2) is



confined to examining whether sanction was obtained by fraud, misrepresentation, or concealment of material facts.

**25.** The submission of Mr. Dani that the Charity Commissioner had considered earlier lease agreements, proceedings before the Court of Small Causes and condition of the property while granting sanction finds support from the record. The original sanction order demonstrates awareness of these matters. It further indicates consideration of condition of the property and valuation exercise undertaken by the Trust. These circumstances assume significance because they indicate that the authority was not acting in ignorance of material facts. The picture emerging from the record indicates that substantial information was available before the authority and decision was taken after consideration thereof. At the highest, it may be said that respondent No.1 subsequently formed a different opinion regarding adequacy of disclosure. However, a subsequent difference of opinion cannot be equated with fraud. The distinction is fundamental because the statute authorises revocation only in the latter situation.

**26.** This Court is conscious of the fact that respondent No.2 may continue to assert rights arising from tenancy, ownership of structures or succession to interests of the erstwhile assignee. Such claims may give rise to disputes between the parties. However, the present proceedings are not concerned with adjudication of those disputes. The legality of the revocation order alone falls for consideration. Section 36(2) is enacted to revoke sanctions obtained by fraud, misrepresentation, or concealment. The impugned order appears to have mixed questions relating to



tenancy, title and private rights with the statutory enquiry contemplated under Section 36(2). Such mixing has resulted in enlargement of the enquiry beyond limits permitted by the statute.

**27.** Upon cumulative assessment of the entire material available on record, this Court is unable to arrive at the conclusion that the sanction dated 24 May 2018 was obtained by practising fraud upon the Charity Commissioner. The findings recorded in the impugned order are based upon alleged concealment of the termination notice, alleged non-disclosure of renewal rights and reversionary rights, alleged inadequacy of valuation and alleged absence of necessity. Each of these circumstances has been independently examined by this Court. Even when viewed collectively, they do not establish fraud, misrepresentation or concealment within the meaning of Section 36(2). They may give rise to issue concerning prudence of the transaction. However, issue cannot assume the character of proof. The statute requires proof of fraud. Such proof is absent.

**28.** Accordingly, this Court reaches the conclusion that respondent No.1 travelled beyond the jurisdiction conferred under Section 36(2). The impugned order is an exercise involving reassessment of the sanction order rather than revocation founded upon statutory grounds. Such an approach is not permissible in law. The power of revocation cannot be converted into an appellate jurisdiction. If such conversion is permitted, the finality attached by the Legislature to completed transactions would stand diluted.



29. In view of the foregoing discussion, and upon overall assessment of the material submissions, evidence on record, and the findings arrived at hereinabove, the following order is passed:

- (a) The writ petition is allowed;
- (b) The impugned order dated 29 January 2020 passed by respondent No.1 under Section 36(2) of the Maharashtra Public Trusts Act, 1950 is quashed and set aside;
- (c) Consequently, the sanction order dated 24 May 2018 granted under Section 36(1) of the Maharashtra Public Trusts Act, 1950 shall continue to remain valid and operative in accordance with law;
- (d) The directions contained in the impugned order requiring respondent Nos.4 to 7 to reimburse the petitioner the consideration amount paid under the transaction and directing restoration of the demised premises in the trust records stand set aside;
- (e) It is clarified that this Court has examined the matter only in the context of the legality and validity of the exercise of jurisdiction under Section 36(2) of the Maharashtra Public Trusts Act, 1950. This judgment shall not be construed as an adjudication upon any independent rights, title, tenancy rights, leasehold rights, ownership rights in structures, succession claims or any other proprietary claims asserted by any party in relation to the subject property. All such issues are expressly kept open to be agitated before the appropriate forum in accordance with law;



(f) It is further clarified that this Court has not expressed any opinion on the legality, validity, or effect of the termination notice issued by the Trust, nor on the merits of any pending or future proceedings concerning the property in question;

(g) Rule is made absolute in the aforesaid terms;

(h) In the facts and circumstances of the case, there shall be no order as to costs.

(i) All pending interlocutory applications, if any, do not survive and are accordingly disposed of.

**30.** At this stage, learned Advocate for respondent Nos.2(a) & 2(b) requests for stay on the implementation of this judgment. However, for the reasons recorded above, request for stay is rejected.

**(AMIT BORKAR, J.)**