



**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 10th OF SEPTEMBER, 2024

WRIT PETITION No. 3787 of 2020

***SWA. SHRIMATI SANTOSHBEN W/O DR. RAJESH JAIN
CHARITABLE TRUST THR. SMT. SONAL JAIN W/O LATE
MAYANK J***

Versus

***THE STATE OF MADHYA PRADESH THR. REGISTRAR
PUBLIC TRUST***

Appearance:

Shri Vinay Puranik - Advocate for the petitioner.

Ms. Vinita Dwivedi- P.L./G.A. for the State.

ORDER

Heard.

2] This petition has been filed by the petitioner under Article 226 of the Constitution of India, against the order dated 20.01.2020, passed by the Registrar, Public Trusts, Indore whereby, an application filed by the petitioner under Section 14 of the M.P. Public Trusts Act, 1951 (hereinafter referred to as 'the Act of 1951') seeking permission to transfer the immovable properties of the petitioner Trust to another trust having same trustees and established for achieving similar objectives, has been rejected and the matter is referred to the Civil Court for obtaining the permission.

3] The case of the petitioner is that the petitioner is a Public Trust registered under the Act of 1951, and Smt. Sonal Jain happens to be its working Trustee, who has filed this petition on behalf of the Trust.



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The case of the petitioner is that on 03.05.2018, a resolution was passed by the trustees to donate the entire properties of the said Trust to another Trust, viz., *Shri Kund Kund Kahaan Digambar Jain Shasan Prabhawna* Trust, Indore, who was also performing the same duties as that of the petitioner Trust and was having the same objectives, through a registered document, and pursuant to which, an application under Section 14 of the Act of 1951 was also filed before the Registrar of Public Trusts to obtain the permission to execute the registered gift deed. However, despite publishing notice of the said application, the same has been rejected by the Registrar, Public Trusts and the matter is referred to the Civil Court for seeking its permission.

4] Shri Vinay Puranik, learned counsel for the petitioner has submitted that the Registrar has erred in rejecting the application filed under Section 14 of the Act of 1951, and has not assigned any reasons for the same also. It is submitted that even according to Section 14 of the Act of 1951, the immovable properties of a trust can be transferred to another public trust, constituted to achieve the same objectives, but instead of allowing the application, the matter is referred to the Civil Court, for which also, there is no legal provision. Thus, it is submitted that the impugned order be set aside and the petition be allowed.

5] Counsel for the respondent/State, on the other hand, has opposed the prayer, however, no reply has been filed.

6] Heard. Having considered the rival submissions and on perusal of the record, it is found that the case pertains to Section 14 of the Act of 1951, which reads as under :-

“14. Previous sanction of Registrar, in cases of sale, etc., of property belonging to a public trust. - (1) Subject to the



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directions in the instrument of trust or any direction given under this or any other law by any Court,-

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

(b) no lease for a period exceeding seven years in the case of agricultural land or for a period exceeding three years in the case of non-agricultural land or building;

belonging to a public trust, shall be valid without the previous sanction of the Registrar.

(2) The Registrar shall not refuse his sanction in respect of any transaction specified in sub-section (1) unless such transaction will, in his opinion, be prejudicial to the interests of the public trust.”

(Emphasis Supplied)

7] It is apparent from the aforesaid provision that there is no mandate in the aforesaid section that in case if the Registrar, Public Trusts does not agree with the request to transfer the property belonging to a public trust, he is required to send the matter to the Civil Court for its permission. What is provided is that such an application can only be refused, if in the considered opinion of the Registrar, the transaction will be prejudicial to the interest of the public trust. This Court is also of the considered opinion that Section 14 does not distinguish between the sale, mortgage, exchange or gift of any immovable property to any person or to any trust having similar objectives, and in such circumstances, the learned Registrar, Public Trusts was not correct in holding that the matter is required to be sent to the Civil Judge for its sanction to the gift the property as aforesaid.

8] It is also found that Clause 19 of the deed of Trust provides that the Trust can also take over such other trusts whether registered or not, to fulfill its objectives and can also align with such trusts for the fulfillment of its objectives.



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9] So far as the finding recorded by the Registrar that as per Clause 11 of the Object of the Trust, it can only receive property in gift and not that it can also gift the property is concerned, the same also cannot be sustained for the reason that in Clause 21, it is clearly provided that for the promotion of any charitable purpose, the Trust can receive assistance from any person or Trust, and can also align with any person and organization.

10] In such circumstances, this Court is of the considered opinion that it was not necessary that the objectives of the Trust shall also include that the trust can also gift its properties to another Trust, as the aforesaid power is inherent in the Trust which also flow from the Clauses 11, 19 and 21.

11] In view of the aforesaid discussion, this Court has no hesitation to hold that the impugned order dated 20.01.2020 cannot be sustained in the eyes of law, and the same is hereby set aside. Resultantly, the application filed by the petitioner under Section 14 of the Act of 1951 is hereby allowed, and the Registrar, Public Trusts is directed to accord permission to the petitioner to gift its properties to the other Trust viz., *Shri Kund Kund Kahaan Digambar Jain Shasan Prabhawna* Trust, Indore, in accordance with law.

12] With the aforesaid, the petition stands *allowed* and *disposed of*.

(SUBODH ABHYANKAR)
JUDGE

Bahar