



2026:DHC:3699



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Judgment Delivered on: 29.04.2026*

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**CS(OS) 472/2025 & I.A. 17138/2025****LALA BISHAMBARNATH AGARWAL****FOUNDATION TRUST**

.....Plaintiff

Through: Mr. Aayush Agarwal, Mr. Sidhant  
Jaiswal and Mr. Amit Agarwal,  
Advts.

versus

**GOVT OF NCT OF DELHI**

.....Defendant

Through: Mr. Abhinav Sharma, Adv.

**CORAM:****HON'BLE MR. JUSTICE VIKAS MAHAJAN****JUDGMENT****VIKAS MAHAJAN, J**

1. The present suit has been instituted by the Plaintiff/Trust seeking permission of this Court to sell an immovable property bearing Office Nos. 71-A, 72-A, 73-A & 74-A, 7th Floor, A Wing, Chandermukhi Estates Private Limited, Aggarwal Trade Centre, Plot No. 62, Sector 11, CBD Belapur, Taluk & District Thane, Maharashtra (hereinafter referred to as the "subject property").
2. The Plaintiff is a public charitable trust registered under the Indian Trusts Act, 1882 and the Charitable & Religious Trusts Act, 1920 [hereinafter 'Act']. The Plaintiff carries on its activities and has its principal place of administration at Bahadur Shah Zafar Marg, New Delhi.
3. The subject property forms part of the assets of the Plaintiff/Trust. It is stated that the property is in a condition of disrepair, requires substantial expenditure for maintenance, and is not capable of being leased out. It is, therefore, asserted that the property no longer serves the objects of the



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Trust.

4. The Plaintiff has obtained a valuation report assessing the value of the subject property at Rs.3,05,62,500/-. An interested purchaser has offered a sum of Rs.3,54,89,000/-, which is stated to be approximately 20% above the assessed market value.

5. In these circumstances, the present petition has been filed seeking directions of this Court for sale of the subject property, invoking Section 7 of the Act.

6. Since the subject property is situated in Thane, Maharashtra, a preliminary issue which arises for consideration is as to whether this Court at Delhi possesses territorial jurisdiction to entertain the present proceedings. Accordingly, arguments were heard confined to the said issue.

7. Mr. Aayush Agarwal, learned counsel for the Plaintiff submits that the present proceedings are maintainable under Section 7 of the Act, which empowers a trustee to approach the Court for "opinion, advice or direction" regarding the management or administration of trust property. As per the Act, such a petition is properly filed before the Court within whose local limits a "substantial part of the subject-matter of the trust is situated".

8. Relying on the precedent in *Vishwa Nath & Santosh Bakshi Charitable Educational Trust (Regd.) & Anr., CS(OS) 119/2019*, Mr. Agarwal highlights four key procedural points namely; (i) a petition under Section 7 of the Act is a valid mechanism for seeking judicial permission to sell immovable trust property; (ii) These proceedings are to be treated as petitions and not as regular civil suits; (iii) no court fee is payable on such petitions; (iv) the Court has the flexibility to devise its own procedure based on the specific facts of the case.



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9. Mr. Agarwal further argues that there is a distinction between "trust property" and "subject-matter of the trust". He contends that since the Plaintiff/Trust is administered from New Delhi, where its principal office and decision making authority are located, the "subject-matter" (the administration itself) falls within this Court's territorial jurisdiction, regardless of where the physical asset is situated.

10. Mr. Abhinav Sharma, learned counsel for the defendant states that he has no objection *per se*. However, he states that since the prayer made in the suit is for the sale of the subject property located in Thane, Maharashtra, therefore the question of territorial jurisdiction of this Court to grant permission for sale of subject property assumes relevance.

11. Having heard the learned counsels for the parties, a short question which arises for the consideration of this court at this stage is whether this court has the territorial jurisdiction to entertain the present suit seeking grant of permission for sale of subject property.

12. Since the court acts in the capacity of *parens patriae* in respect of the trust created or existing for public purpose of a charitable or religious nature<sup>1</sup>, therefore, trustee(s) of such trusts have been empowered by sub-section (1) of section 7 of the Act to approach the court for "opinion, advice or direction" regarding the management or administration of "trust property". The said provision also provides an answer to the question as to which court would have the jurisdiction to entertain such a petition.

13. At this juncture, it is imperative to advert to Section 7 of the Act, which empowers a trustee to approach the Court for "opinion, advice or direction" regarding the management or administration of trust property.

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<sup>1</sup> Executive Officer, Arthanareswarar Temple v. R. Sathyamoorthy & Ors. : (1999) 3 SCC 115



Section 7 reads thus:

***“7. Powers of trustee to apply for directions.— (1) Save as hereinafter provided in this Act, any trustee of an express or constructive trust created or existing for public purpose of a charitable or religious nature may apply by petition to the Court, within the local limits of whose jurisdiction any substantial part of the subject-matter of the trust is situate, for the opinion, advice or direction of the Court on any question affecting the management or administration of the trust property, and the Court shall give its opinion, advice or direction, as the case may be, thereon:***

*Provided that the Court shall not be bound to give such opinion, advice or direction on any question which it considers to be a question not proper for summary disposal.*

*(2) The Court on a petition under sub-section (1), may either give its opinion, advice or direction thereon forthwith, or fix a date for the hearing of the petition, and may direct a copy thereof, together with notice of the date so fixed, to be served on such of the person interested in the trust, or to be published for information in such manner, as it thinks fit.*

*(3) On any date fixed under sub-section (2) or on any subsequent date to which the hearing may be adjourned, the Court, before giving any opinion, advice or direction, shall afford a reasonable opportunity of being heard to all persons appearing in connection with the petition.*

*(4) A trustee stating in good faith the facts of any matter relating to the trust in a petition under sub-section (1), and acting upon the opinion, advice or direction of the Court given thereon, shall be deemed, as far as his own responsibility is concerned, to have discharged his duty as such trustee in the matter in respect of which the petition was made.”*

(emphasis supplied)

14. Sub-section (1) of section 7 provides that the court within the local limits of whose jurisdiction any substantial part of the “*subject-matter of the trust*” is situate would have competence to entertain a petition on behalf



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of the trustee seeking opinion, advice or direction. Incidentally, the said provision also uses the expression “*trust property*”, but it does not say that the court within whose local limits the “*trust property*” is situated will have the jurisdiction.

15. It is also a trite law that as a general rule when two different expressions are used by the same statute or the same provision, one has to construe such different expressions as carrying different meanings.<sup>2</sup> An examination of Section 7(1) of the Act denotes that the expression “*subject-matter of the trust*” has been used in contradistinction to the expression “*trust property*”. The term “*trust property*” refers to the tangible assets of the trust, such as the immovable property whereas the “*subject-matter of trust*” encompasses a broader administrative and management framework of the charitable trust.

16. This court finds that the subject matter of the present petition is the administrative decision making process of the trustees regarding the alienation of a trust property, the *bona fide* need for which has to be tested by the court, besides ensuring that such property fetches the maximum price in the market, if at all there is necessity to sell the same.

17. A perusal of the Trust Deed (Document P-2) shows that the Plaintiff/Trust's principal office of the trust is situated at New Delhi, therefore, all decisions related to administration and management will have to be taken in New Delhi. The decision to sell or retain property is an internal matter of trust management, making the *situs* of administration the most relevant factor for determining where a substantial part of the trust's

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<sup>2</sup> Kailash Nath Agarwal & Ors. v. Pradeshiya Industrial & Investment Corporation of U.P. Ltd. & Anr. : (2003) 4 SCC 305



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subject matter is situated. Therefore, this court is of the considered opinion that the '*substantial part of the subject-matter of the trust*' is situated within this Court's territorial limits. Furthermore, as the court acts in the capacity of *parens patriae*, it is essential that supervisory jurisdiction is exercised by the court where the trust functions and decisions qua the management or administration of its property are taken. This view also aligns with the doctrine of *forum conveniens*, as the court at a place where the trust functions is most convenient for the trustees to discharge their statutory obligation of obtaining an opinion, advice or direction regarding the management or administration of "*trust property*", as well as for the beneficiaries to have a trust properly administered. Consequently, the physical location of the subject property in Maharashtra does not denude this court of its supervisory jurisdiction to grant requested permission *qua* the sale of same.

18. If jurisdiction were to be determined solely by the physical location of the "*trust property*", it would lead to practical difficulties or even conflicting decisions where a single trust with assets in multiple states would be approaching different courts for opinion, advice or direction regarding the management or administration of "*trust property*".

19. Reference in this regard may be had to the decision of High Court of Bombay in *Administrator of Shringeri Math v. Charity Commissioner, Bombay, 1962 SCC OnLine Bom 84*, wherein the court was dealing with an analogous situation. In that matter, the trust property was located in Nasik, Maharashtra. The primary object of the Nasik institution was the maintenance and upkeep of certain '*Samadhis*' in Nasik. Despite these physical assets being in Maharashtra, the site was not used for public



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worship as a matter of right or for imparting religious instruction. The primary and main institution was situated in Mysore territory. While relying upon the decisions of Hon'ble Supreme Court in *State of Bihar v. Sm. Charusila Dasi*, [1959] AIR SC 1002 and *State of Bihar v. Bhabapritananda*, [1959] AIR SC 1073, it was held by the Bombay High Court that where the principal trust is situated outside Bombay, the mere existence of a portion of its properties within Bombay would not attract the applicability of the Bombay Public Trusts Act, 1950, and the authorities in Mysore, rather than Bombay should retain jurisdiction despite the physical asset of the trust being situated in Bombay.

20. It was further observed that where the main institution is located in one State, the statutory authorities of that State are competent to supervise not only the principal institution but also its subordinate establishments situated elsewhere.

21. The Court also held that to avoid inconsistencies and to rationalise the management of public trusts with properties spread across multiple States, the jurisdiction must vest with the authorities of the State where the principal institution is situated, as this alone would facilitate and simplify effective administration.

22. The court also emphasized that the 'beneficiaries' right is to have the trust properly administered, and such right is ordinarily enforceable at the place where the trust is situated or administered. It was further held that the existence of trust properties outside the territorial limits does not denude the jurisdiction of the Court exercising control over the trust. The relevant portion of *Shringeri Math* (supra) is reproduced below for ready reference:



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*“2. It appears that the then Shankaracharya requested the Mysore Government in 1953 to take charge of the ‘Math’ at Shringeri and all its properties because of his ill-health. In pursuance to that request, the Mysore Government took over all the properties of the ‘Math’ by a notification of January 12, 1953, under its management under s. 25(iii) of the Mysore Religious and Charitable Regulation of 1927 and at the same time appointed one N. Shesu Iyer to be the manager of the institution. After the Bombay Public Trusts Act, 1950, came into force, for two years no application was made for registration of the Nasik institution as in a previous enquiry under the Bombay Public Trusts Registration Act of 1935 these properties were held to be the private properties of Shri Shankaracharya. Some members of the public at Nasik made a grievance about the same and, therefore, an enquiry was started by the Charity Commissioner, Poona Region and it was numbered as Application No. 99 of 1954. At this enquiry though a public notice was issued, no one appeared and offered evidence. Only the officer in management of the Shringeri Math gave evidence. The Assistant Charity Commissioner declared the Nasik properties to be public trust and ordered accordingly. It seems that simultaneously an enquiry was commenced by the Charity Commissioner, Belgaum, in respect of some properties which fell within his jurisdiction. These were also held to be public trust properties and an order was made accordingly. Being aggrieved by both these orders, the officer made an appeal to the Charity Commissioner, which was heard by the Deputy Charity Commissioner, Ahmedabad, with appellate powers, sitting at Bombay. He confirmed the findings made by the Assistant Charity Commissioners. An application was then made under s. 72 of the Bombay Public Trusts Act, 1950, to the District Judge at Nasik for setting aside the orders made by the Deputy Charity Commissioner and the Assistant Charity Commissioners. He also failed in the District Court and that is why he comes here in appeal. Mr. Amin has raised three contentions before us. He argues that the properties at Nasik, which are loosely called a ‘math’, is not a public trust and, therefore, is not within the Act; secondly, in view of the decisions of the authorities under the Bombay Public Trusts*



*Registration Act No. XXV of 1935, the question is barred by the doctrine of res judicata and, therefore, the decision under appeal is erroneous; and, thirdly, in any case, it being property appurtenant to the main Math at Shringeri, the Bombay Public Trusts Act, 1950, will not apply and the Charity Commissioners in Bombay will have no jurisdiction to deal with the affairs of this institution. An attempt was made to contend relying on the decision in Chhotabhai v. Jnan Chandra Basak [(1935) L.R. 62 I.A. 146, S.C.37 Bom. L.R. 567.] , that the Shringeri Math itself is a private institution and the properties appurtenant to the Shringeri Math must also be regarded as private properties. This point was never taken at any stage in this enquiry and the only evidence that was offered was in respect of Nasik properties. It would, therefore, be hardly fair to us to give any decision on the question as to whether Shringeri Math itself is a public or private trust. In view of our decision on the third point it is really not necessary for us to determine whether or not Shringeri Math is the private property of Shri Shankaracharya. For the purposes of this enquiry it may be assumed that it is a public trust even without deciding it. “We will consider the second and the third contentions of Amin first.*

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*5. The third question is whether the institution at Nasik is liable to be registered under the Bombay Public Trusts Act, 1950. The preamble to the Act says that it is an Act to regulate and to make better provisions for the administration of public religious and charitable trusts in the State of Bombay. (The italics are ours). **From the nature of the power exercisable by the Legislature it is clear that the Act can only apply to public trusts situated in the State of Bombay and not elsewhere. This must mean necessarily that substantial portion of the trust properties must be situated in the State of Bombay and the purpose of the trust must indicate that it is intended for the benefit of the inhabitants of the Bombay State.** By s. 18 a duty is cast on the trustees of the public trust to make an application for the registration of the public trust which must again necessarily mean that the trustees are residents within the territory of the State or at least, from the nature of the trust must be deemed to be residents in the Bombay State. Section 22*



*requires that any change in any of the matters required to be entered in the Register, must be communicated by the trustees or trustee to the Charity Commissioner. Section 66 of the Act creates offences and provides for penalties and says that whoever contravenes any provision of any of the sections mentioned in the first column of the table shown therein shall, on conviction, for each such offence be punished with fine which may extend to the amount mentioned in that behalf in the third column of that table. These provisions indicate that the control on the trustees is “in personam”. It would therefore, mean that in order that the trustees should be amenable to the jurisdiction of the various Charity Commissioners in the State, they must also be subject to their process which can be effectively enforced against them and this could effectively be done only if the trust is substantially situated within the State of Bombay in which case alone it can be said that the trustees would be amenable to the process of either the Charity Commissioner or of the Court within the State of Bombay. The scheme of the Act suggests that only such trusts were intended to be governed by the Act.*

*6. In this connection we may refer with advantage to two decisions of the Supreme Court in State of Bihar v. Sm. Charusila Dasi [[1959] A.I.R. S.C. 1002.] and State of Bihar v. Bhabapritananda [[1959] A.I.R. S.C. 1073.] . In both these cases some of the provisions of the Bihar Hindu Religious Trusts Act, 1950, were challenged as being ultra vires the powers of the Legislature. In the first case the trust was created under a trust deed by one Charusila Dasi for the worship of an idol and it was contended that it was a public trust and that the Bihar Hindu Religious Trusts Act, 1950, applied to it. **The properties which were the subject-matter of the trust consisted among others of some properties in Calcutta out of Bihar State.** A contention was taken before the Supreme Court that inasmuch as the Bihar Act would extend in the-governance on Calcutta property also, the Act had extra territorial application and was, therefore, invalid. In repelling that argument their Lordships said (p. 1010):*



***“...The question, therefore, narrows down to this: in so legislating, has it power to affect trust property which may be outside Bihar but which appertains to the trust situate-in Bihar? In our opinion, the answer to the question must be in the affirmative. It is to be remembered that with regard to an interest under a trust the beneficiaries' only right is to have the trust duly administered according to its terms and this right can normally be enforced only at the place where the trust or religious institution is situate or at the trustees' place of residence; see Dicey's Conflict of Laws, 7th edition, p. 506. The Act purports to do nothing more. Its aim, as recited in the preamble, is to provide for the better administration of Hindu religious trusts in the State of Bihar and for the protection of properties appertaining thereto. This aim is sought to be achieved by exercising control over the trustees. 'in personam'. The trust being situate in Bihar the State has legislative power over it and also over its trustees or their servants and agents who must be in Bihar to administer the trust. Therefore, there is really no question of the Act having extra-territorial operation. In any case, the circumstance that the temples where the deities are installed are situate in Bihar, that the hospital and charitable dispensary are to be established in Bihar for the benefit of the Hindu public in Bihar gives enough territorial connection to enable the legislature of Bihar to make a law with respect to such a trust.”***

(emphasis supplied)

7. Their Lordships applied the doctrine of territorial connection or nexus which was applied by them to Income-tax and sales tax legislation. Their Lordships also observed in deciding the validity of the Act as follows (p. 1010):

***“...It cannot be disputed that if the religious endowment is itself situated in Bihar and the trustees function there, the connection between the religious institution and the property appertaining thereto is real and not illusory; indeed, the religious institution and the***



*property appertaining thereto form one integrated whole and one cannot be dissociated from the other. If, therefore, any liability is imposed on the trustees, such liability must affect the trust property.”*

*8. Similar view was expressed in the second case relating to Baidyanath temple situate in the town of Deoghar within the limits of Santhal Parganas in the State of Bihar.*

*9. From these two cases it would appear that Shringeri Math which is the primary and the main institution being situated in Mysore territory, the provisions of any Act in relation to public trust obtaining in that State will enable the authorities under that Act to supervise this subordinate institution at Nasik. As a matter of fact the manager of the Institution appointed by the Government of Mysore State is at present exercising that control under the Mysore Act. To hold now that the Charity Commissioner in Bombay will also have controlling powers over the Nasik institution will create large number of anomalies as to accounting and as to the general control of the institution. Several major and minor questions of dispute might arise as a result of conflicting jurisdictions and would hamper proper administration of the institution. Very often orders that may be made by the Charity Commissioner in Bombay would be impossible of enforcement against Shri Shankaracharya or the Manager who cannot be subject to the control of the Charity Commissioner. In order to rationalise the management of public trusts whose main institution is in one State and which has subordinate institutions in other States, it would be proper to hold that the authorities at that place only have jurisdiction over the properties distributed in the other States. This will facilitate and simplify the administration of the various properties of the trust. In our view, therefore, in order that a trust should be required to be registered under the Bombay Public Trusts Act, 1950, substantial part of the trust property ought necessarily to be situated within the State of Bombay for the benefit of the residents of the State of Bombay. If a portion of the property of a main trust outside the State of Bombay is situated within the State, the Act will not apply and the Charity Commissioner will have no jurisdiction in the matter.”*



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(emphasis supplied)

23. In the present case, it is an admitted position that the Plaintiff Trust is (i) administered from New Delhi; (ii) its principal place of business and decision making is within the territorial jurisdiction of this Court; and (iii) the relief sought pertains to the administration of the trust, namely, permission to sell an asset of the trust. The transaction of sale of the subject property belonging to the charitable trust is not a stand-alone act concerning immovable property, but is intrinsically connected with the administration and management of the trust. The decision whether to retain or alienate a trust asset is thus, a matter squarely falling within the domain of trust administration.

24. Therefore, the “*subject-matter of the trust*” in the present proceedings cannot be narrowly construed as the immovable property situated in Thane, Maharashtra, but must be understood as encompassing the administration of the trust itself, which is located within territorial jurisdiction of Delhi, therefore, sufficient territorial nexus exists to confer jurisdiction on this court under Section 7 of the Act.

25. In view of the above, this court holds that it has the requisite territorial jurisdiction to entertain and decide the present suit, notwithstanding the fact that the subject property is situated in Thane, Maharashtra.

26. List for further proceedings on 25.05.2026.

**VIKAS MAHAJAN, J**

**APRIL 29, 2026/aj**