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आवेदक Adw Gangee
दिनांक 26/3/12
30/3/12
30/1-दि. रोजी मिळाले
कलम २३ अन्वये

BEFORE THE ASSISTANT CHARITY COMMISSIONER,
GREATER MUMBAI REGION, MUMBAI.

Application No. ACC-II/25/2011

(Under Section 50A(i) of the Bombay Public Trusts Act, 1950.)

In the matter of trust,
'Indian Society of Hip and Knee
Surgeons'
P.T.R. No. E-23526 (Mumbai)

Dr. Javahir Anant Pachare
7 10 others.

...Applicants

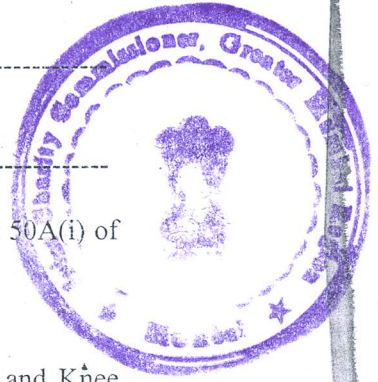
-: versus :-
NIL.

JUDGMENT
(Delivered on 23.2.2012)

This is an application for framing a scheme under Section 50A(i) of the Bombay Public Trusts Act, 1950.

2. The trustees of the trust namely 'Indian Society of Hip and Knee Surgeons' bearing Registration No. E-23526 (Mumbai) have unanimously filed present application for framing a scheme. According to them, for proper administration and management of the trust as well as to remove the unreasonable and ambiguous provisions, to run the trust smoothly by day-to-day administration, they have unanimously decided to frame a proper scheme.

3. Considering the contention of the application, the following points arose for my determination and I record my findings thereon for the reasons as mentioned in the later part of the judgment.



<u>POINT</u>	<u>FINDING</u>
1. Whether the scheme is necessary for proper management and administration of the trust ?	Yes
2. If yes, what should be the scheme?	As per draft of scheme.
3. What order ?	As per final order.

: REASONS FOR FINDINGS :

4. Both the points are discussed simultaneously for the sake of convenience as they are interlinked and interdependent. It is the contention of the applicants that for smooth functioning and day-to-day management of the trust, they have applied for framing a scheme with better clauses of administration. On perusal of the documents which can be seen that they wanted to delete the clause namely duties of executive board and duties of office bearers. The trustees are also intending to increase a clause for appointment and dissolution of the executive board and Research Committee and their duties. The clause regarding finance, scientific annual meeting are also intended to be deleted. There are certain changes regarding amalgamation/dissolution of the trust as well as Rules and Regulations.

5. On perusal of draft scheme it appears that more emphasis is given so as to smoothen the day-to-day working of the trust along with the management. The draft scheme is unanimously drafted by all the trustees. More so all the trustees have rendered their consent letters to act as trustees and their names can be seen in Schedule-1 of this office. All the trustees have unanimously passed resolution to support the proposed draft which discloses jurisdiction of the trust along with the newly added clauses. It is further specifies the procedure to call the meetings, quorum of meeting, election of trustees, qualification of trustees, vesting

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of property in the new trustees, payment of management expenses, resolution to be passed by majority, circular of resolution, manner to keep the minute book, method to deal with the legal matters, borrowings and alienations, custody of documents as well as power to employ services. Thus, the draft scheme is sufficient for the day-to-day management of the trust. In addition to it, there is neither any controversy nor any illegality in the draft scheme. Therefore, the draft scheme is legal and acceptable. So also it is sufficiently drafted for smooth functioning and management of the trust.

6. In sequel, I answer point Nos. 1 and 2 in affirmative and proceed to pass the following order.

ORDER

1. Application is hereby allowed.
2. The scheme is hereby settled for day-to-day management and administration of the trust with effect from the date of this order as well as day-to-day affairs of the trust shall be managed as per the provisions of the scheme henceforth.
3. Draft scheme at Annexure 'A' be form part and parcel of this order.
4. Necessary entries betaken in Schedule-1.
5. Parties be informed accordingly.
6. No order as to costs.

Place:Mumbai
Date: 22/03/12


(P.R. Ashturkar)
Assistant Charity Commissioner (II),
Greater Mumbai Region, Mumbai.



Annexure 'A'
*C/II/25-2011
Date: 22/03/2012

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**SCHEME FOR
THE MANAGEMENT AND ADMINISTRATION OF
"INDIAN SOCIETY OF HIP AND KNEE SURGEONS",
P.T.R. No.: E-23526 (Mumbai)**

01. NAME AND REGISTRATION OF THE TRUST:

This public charitable trust shall be designated as and known by the name of "Indian Society of Hip and Knee Surgeons" (hereinafter referred to as "The Said Trust") and the same shall continue to stand registered at serial number E-23526 (Mumbai) at the Public Trusts Registration Office, Greater Mumbai Region, Mumbai.

02. OFFICE OF THE TRUST:

The Office of the Trust shall be in the city of Mumbai or as the Board of Trustees may decide. At present, it is situated at: Plongh Share, 4-A/415, Sitaladevi Temple Road, Mahim (W), Mumbai-400016.

03. MAXIMUM AND MINIMUM NUMBER OF MEMBERS OF BOARD OF TRUSTEES:

There shall be a 'Board of Trustees' comprising of not less than 9 (nine) and more than 15 (fifteen) members. However, the number of first Trustees shall be 11.

04. FIRST BOARD OF TRUSTEES:

The following persons who are the existing Trustees of the Trust shall be the first trustees of the said Public Trust under the Scheme:

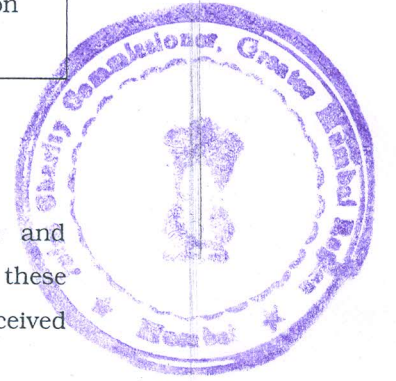
No	Name of the Trustee	Designation	Address	Profession
1	Dr. Javahir Anant Pachore	Trustee	Plongh Share, 4-A/415, Sitaladevi Temple Road, Mahim (W), Mumbai-400016	Orthopedic Surgeon
	Dr. Ashok Rajgopal	Trustee	A/54, New Friends Colony, New Delhi-110065	Orthopedic Surgeon



3	Dr. Vikram Indrjeet Shah	Trustee	Plot No 615, Nr. B.D.Patel Farm, Karnavati Club approach Road, Mohammadapura Village, S.G. Highway, Ahmedabad-380015	Orthopedic Surgeon
4	Dr. P. Pichai Suryanarayan	Trustee	J-5 Alsa Crescent, 72, Herrington Road, Chetpet, Chennai-600031	Orthopedic Surgeon
5	Dr. Shrinand Vishwanath Vaidya	Trustee	20, Saichintan, Prarthana Samaj Road, Ville Parle (East), Mumbai- 400057	Orthopedic Surgeon
6	Dr. Chandrashekhar J. Thakkar	Trustee	801, Shantanu, St. Martis Road, Bandra (West), Mumbai-400050	Orthopedic Surgeon
7	Dr. Haresh Purushottamdas Bhalodiya	Trustee	8, Greenfield Society, Opp. Morli Restaurant, Sindhu Bhavan Road, Off S.G. Highway, Bodakdev, Ahmedabad-380059	Orthopedic Surgeon
8	Dr. Sanjay Rajendra Agarwala	Trustee	3C, Premkutir, B.C. Marg, Marine Drive, Mumbai-400020	Orthopedic Surgeon
9	Dr. Sanjivkumar Singh Marya	Trustee	115, Vista Villas, Greenwood City, Sector - 46, Gurgaon - 122001	Orthopedic Surgeon
10	Dr. Arun Bipin Mullaji	Trustee	4, Indus Court, A Road, Churchgate, Mumbai-400020	Orthopedic Surgeon
11	Dr. Rajesh Navinchandra Mainar	Trustee	801, Serenity, Indra Narayan Lane, Santacruz (West), Mumbai-400054	Orthopedic Surgeon

05. PROPERTIES OF THE TRUST:

The properties of the trust shall consist of all movable and immovable properties mentioned in schedule 1 kept in this office. All these properties and new accretions thereto, acquisitions and donations received hereafter shall be called the "Trust Properties".



06. VESTING OF THE TRUST PROPERTY :The Trust properties shall vest in the Trustees for the time being under the Scheme and shall be administered and managed by them, subject to and in conformity with the provisions of the Scheme.

07. PAYMENT OF MANAGEMENT EXPENSES:

The Trustees shall out of the rents, profits, income and interest of the trust properties, in the first instance, pay all the rates, taxes, assessments, dues and other outgoings and, in the next place, all the proper charges and expenses of and incidental to the administration and management of the trust properties as well as costs of current repairs to and the upkeep of the immovable properties belonging to the said Trust, if any, and thereafter, set apart 10% or as the Board of Trustees may decide, from time to time, of the total gross income, a reserve fund for the purposes of heavy repairs, reservations or reconstructions of buildings belonging to the said Trust, if any, and apply the residue for the objects of the Trust hereinafter mentioned.

08. OBJECTS OF THE TRUST:

- a. To increase knowledge of hip and knee joint in health and disease.
- b. To promote highest level of professional standards in patient care in disorders of hip and knee joints.
- c. To create optimum environment to facilitate and to carry out education and research on treatment and surgery of arthritic hip and knee joints.
- d. To determine the optimal standards for education of fellows in the surgery of arthritic hip and knee.
- e. To promote the profession of hip and knee surgeons ethically.
- f. To create a joint replacement registry for the purpose of research.
- g. To support and donate monies to any other organization for any of the above objects.

09 FIRST TRUSTEES:

The following persons who are the existing Trustees of the Trust shall be the first trustees of the said Public Trust under the Scheme:



No.	Name of the Trustee	Address
1	Dr. Javahir Anant Pachore	Plongh Share, 4-A/415, Sitaladevi Temple Road, Mahim (W), Mumbai-400016
2	Dr. Ashok Rajgopal	A/54, New Friends Colony, New Delhi-110065
3	Dr. Vikram Indrjeet Shah	Plot No 615, Nr. B.D.Patel Farm, Karnavati Club approach Road, Mohammadapura Village, S.G. Highway, Ahmedabad-380015
4	Dr. P. Pichai Suryanarayan	J-5 Alsa Crescent, 72, Herrington Road, Chetpet, Chennai-600031
5	Dr. Shrinand Vishwanath Vaidya	20, Saichintan, Prarthana Samaj Road, Ville Parle (East), Mumba-400057
6	Dr. Chandrashekhar J. Thakkar	801, Shantanu, St. Martis Road, Bandra (West), Mumbai-400050
7	Dr. Haresh Purushottamdas Bhalodiya	8, Greenfield Society, Opp. Morli Restaurant, Sindhu Bhavan Road, Off S.G. Highway, Bodakdev, Ahmedabad- 380059
8	Dr. Sanjay Rajendra Agarwala	3C, Premkutir, B.C. Marg, Marine Drive, Mumbai-400020
9	Dr. Sanjivkumar Singh Marya	115, Vista Villas, Greenwood City, Sector-46, Gurgaon-122001
10	Dr. Arun Bipin Mullaji	4, Indus Court, A Road, Churchgate, Mumbai-400020
11	Dr. Rajesh Navinchandra Mainar	801, Serenity, Indra Narayan Lane, Santacruz (West), Mumbai-400054

10. **NUMBER OF TRUSTEES:**

The number of Trustees shall be not less than 9 and not more than

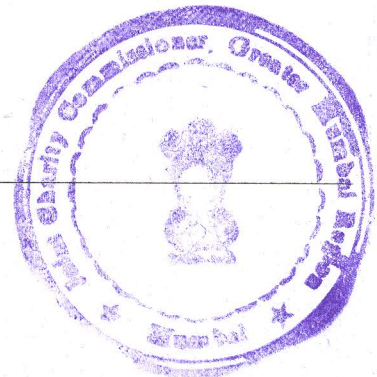
15. However, the number of first Trustees shall be 11.

11. **QUALIFICATION OF TRUSTEE:**

a. A Trustee shall be a qualified orthopedic surgeon, who has been in practice as a hip and knee surgeon for a period of at least 7 years, who is a life member of the Trust and who has been actively associated with the activities of the trust for a period of at least 5 years.

b. Subject to clause a. above, a Trustee shall be aged not less than 35 years and not more than 70 years. A trustee in office shall cease to be a trustee on his/her attaining the age of 70 years or being disqualified to act as trustee under the provisions of law.

c. A trustee shall not be indebted to the said trust.



12. APPOINTMENT OF NEW TRUSTEE WHEN VACANCY ARISES:

Whenever, any Trustee either original or substituted under the Scheme shall, during his/her tenure of Trusteeship, die or be absent for six consecutive months from India without leave of absence from the Board of Trustees or be convicted of a criminal offence involving moral turpitude and punished with imprisonment or desires to be discharged from Trusteeship or refuses or becomes unfit or incapable to act in the Trust or to execute the powers in him reposed under this scheme, a vacancy or vacancies shall arise and then in that event the surviving or continuing Trustees for the time being may appoint any other eligible person or persons to be a Trustee or Trustees to the vacancy or vacancies so arising and the so appointed Trustee shall be deemed to be as if originally appointed. No acts of Board of Trustees shall be invalid by reason of such a vacancy remaining unfilled up, provided number of such surviving Trustees is not less than 9.

13. VESTING OF PROPERTY IN NEW TRUSTEES:

So often as any new Trustee or Trustees shall be appointed as aforesaid, the Trust properties shall with all convenient dispatch be conveyed, assigned or transferred so that the same may be legally and effectually vested in such new Trustee or Trustees either solely or jointly with the surviving or continuing Trustee or Trustees as the case may require.

14. CONSENT OF NEW TRUSTEES TO ACT AND THEIR POWERS:

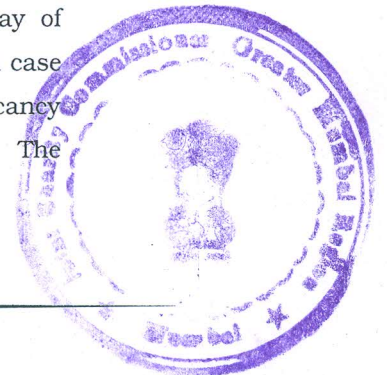
Every new Trustee appointed as aforesaid with his consent previously obtained in writing shall have the same powers, authorities and discretion and shall, in all respects, act as if he had been originally appointed as Trustee.

15. APPOINTMENT OF CHAIRMAN:

The Trustees shall elect one of them as a Chairman by way of majority and the Chairman so elected will hold the office for three years. In case of death or retirement of the Chairman during his chairmanship, the vacancy shall be filled up by the Trustee by electing a new Chairman in his place. The



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same Chairman may be elected as often as the Trustees may choose, but not for more than two successive terms. The Chairman shall preside at all meetings of the Trustees. In the absence of Chairman at any meeting, the Trustees present shall unanimously appoint any one from amongst themselves to be the Chairman for the purpose of the meeting.

16. MEETING OF BOARD OF TRUSTEES :

The Trustees shall hold Board meetings at least once in a financial year and also whenever necessary. Any Trustee remaining absent from three such consecutive meetings without leave of absence shall cease to be a Trustee unless he has obtained such leave under clause 10 hereinabove and has intimated the Board accordingly.

17. MEETINGS BY REQUISITIONS:

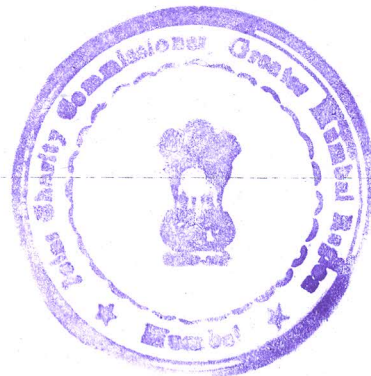
The Chairman shall also call a meeting of the Trustees on a requisition made to him in writing by any three of the Trustees specifying the purpose/s for which such meeting is desired to be held. In the event of no meeting being called and held by the Chairman within two weeks from the receipt by him of such requisition, the requisitionists may themselves call a meeting. In the event of there being no Chairman, 2/3 number of Trustees of existing board may at any time call a meeting.

18. NOTICE OF THE MEETING:

Notice of every meeting of the Trustees shall be delivered or sent through the post, by courier or by e mail to each Trustee at his address at least fifteen clear days before the date of the meeting, provided that in the event of the Trustees framing regulations prescribing some other mode of giving notice, the notice shall be in accordance with such regulations.

19. QUORUM:

- a. At least $\frac{1}{2}$ of the total strength of Trustees shall form the Quorum for the meeting.



b. A meeting of the Trustees called by requisition shall stand cancelled if there is no Quorum assembled within half an hour after the time appointed for the meeting.

20. RESOLUTION BY MAJORITY:

Every resolution or question other than the appointment of a new Trustee, submitted to a meeting of Trustees shall be decided by a majority of Trustees present at such meeting and voting on the question, subject to the following exceptions:

a. On all matters involving financial expenditure or commitment by the trust exceeding Rs.1,00,000, a 2/3rd majority of the Board of Trustees (i.e. of all the trustees, whether present or not at the meeting) shall be required.

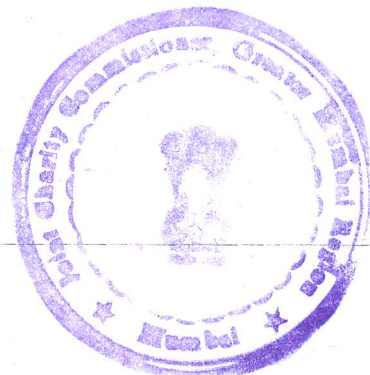
b. For spending on objects referred to in clause 6(g) of this scheme, a 2/3rd majority of the Board of Trustees (i.e. of all the trustees, whether present or not at the meeting) shall be required.

c. Any proposal to sell, mortgage, exchange, gift or otherwise deal with any immovable property or raise loans for specific projects shall require a 2/3rd majority of the Board of Trustees (i.e. of all the trustees, whether present or not at the meeting).

Each Trustee shall have one vote, but in the event of an equality of votes, the Chairman of such meeting shall have a second or casting vote. Any resolution of the Trustees may be rescinded or varied by 2/3rd majority of the Board of Trustees but not earlier than six months from the date of its passing.

21. CIRCULAR RESOLUTIONS:

Any matter of business of a routine or formal or urgent nature may be determined by a Circular Resolution without a meeting of the Trustees, provided that it is agreed to by a 2/3rd majority of the Trustees. Such business matter determined by Circular shall be recorded at the next meeting of the Board of Trustees. In case of difference of opinion, such question shall be dealt with at the next meeting of the Board of Trustees.



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22. MINUTE BOOK TO BE KEPT:

A Minute Book shall be kept in which shall appear:

- a. A clear report of the proceedings at each of the meeting of the Trustees.
- b. A copy of each Circular on which a decision has been arrived at.

The minutes shall be read over to the Trustees at the next meeting and when confirmed, shall be signed by the Chairman of such meeting and in case of difference of opinion at the time of confirmation of proceedings of a previous meeting, the minutes shall be confirmed according to the sense of the majority of the Trustees present at such previous meeting.

23. APPOINTMENT OF EXECUTIVE BOARD, OFFICE BEARERS AND COMMITTEES AND THEIR DUTIES:

The Board of Trustees shall have the power to appoint such Executive Board, Office Bearers and Committees, as may in their opinion be necessary for effective working of the Trust, and to frame rules and regulations for their composition, eligibility, meetings, functioning, duties and responsibilities, etc. The Trustees shall have the power to amend or delete any such rules and regulations as they deem fit, provided that it is agreed to by 2/3rd of majority of the all members of Board of Trustees.

24. ACCOUNTING OF THE TRUST FUNDS:

The board of Trustees shall maintain regular accounts every year and prepare a report of their proceedings, Balance Sheet and Statement of Income & Expenditure of the Trust and after getting it audited by the Statutory Auditors for the Accounting year, submit the audited accounts to the Dy. Charity Commissioner of Greater Bombay within a stipulated time.

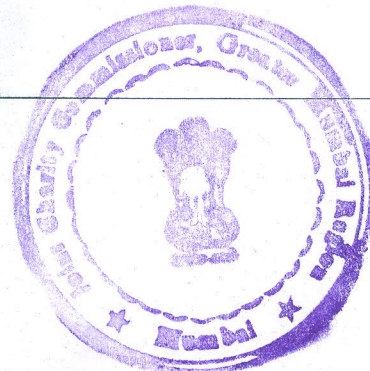
25. ACCOUNTING YEAR:

The accounting year of the trust shall end on 31st March every year.

26. BANK ACCOUNTS:

The Trustees shall ordinarily keep cash on hand such amount as may be decided at a meeting of the Trustees from time to time. All the accounts in

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any scheduled banks approved under section 35 of the Bombay Public Trusts Act, 1950, shall be maintained in the name of the Trust. All the accounts shall be operated jointly at least by any two such persons as the Trustees may decide from time to time.

27. INVESTMENT OF TRUST FUNDS:

The trust funds and the moneys shall be invested in accordance with provisions of the Bombay Public Trust Act, 1950 and of the Income Tax Act, 1961.

28. ENDOWMENT/EARMARKED/GENERAL FUNDS:

The various amounts of endowment/earmarked funds shall be administered by the Board of Trustees on the terms and conditions laid down by the donors for the objects. Donations received for any specific corpus or funds will be dealt with accordingly. Trustees shall have the power to spend the corpus for the objects of the trust.

29. MEMBERSHIP:

The Trustees shall have the powers to decide upon such categories of membership of the Trust as they deem fit, and to frame rules and regulations for each such category of membership, their eligibility, their rights and duties, meetings of such members, etc.

30. POWERS TO ACQUIRE THE PROPERTY:

The Trustees shall have power to purchase, build, develop or take on lease or otherwise acquire (except on mortgage) immovable properties for the benefit of the Trust from the funds of the Trust with the previous sanction of the General body of the Trust and Charity Commissioner.

31. POWER TO ACCEPT PROPERTIES:

The Trustees shall have powers to accept and manage such other properties, movable or immovable, as may be offered to the Trust for the use and benefit of the Trust.



32. LEGAL MATTERS:

The trustees shall have power to take legal action, file suits, complaints, applications etc. in any Civil, Criminal Courts or before any Authority or Authorities in connection with the relating to the Trust properties, administration, and to settle compromise disputes in or out of Court and to take such other steps may be necessary in that behalf, and incur expenditure for the same from the Trusts Funds.

33. BORROWINGS AND ALIENATIONS:

Subject to section 36 and Section 36A(3) of the Bombay Public Trusts Act, 1950, in case of urgency or legal necessity, the Board of Trustees have authority and/or are empowered to sell, mortgage, exchange, gift or otherwise deal with any immovable property and raise loans for specific projects.

34. POWER TO EMPLOY SERVICES:

The Trustees shall have power to appoint/suspend/dismiss any employee or employees as they may require for the management of the properties and carrying out the activities of the Trust, on such terms and conditions, as they may deem fit and proper.

35. RULES AND REGULATIONS:

The trustees shall have power from time to time to frame such rules and regulations, as they may think fit and proper, for the management and administration of the Trust, its institutions, and funds and its properties and also alter or vary the same provided that such rules and regulations shall not be inconsistent with any of the provisions of the scheme and/or of the Bombay Public Trust Act, 1950 or the rules made there under.

36. POWER OF AMALGAMATION, DISSOLUTION OF THE TRUST:

The trustees shall agree to amalgamate or enter into any arrangement or scheme of amalgamation, reorganization or reconstruction of the trust with any other trust having identical or similar or altogether different objects but such objects shall be by their nature medical.



37. BUDGET:

The trustees shall, at least one month before the commencement of each accounting year prepare and submit a budget in the form of Schedule VII-A (prescribed in Rule 26A) to the Deputy Charity Commissioner.

38. POWER TO RECEIVE SUBSCRIPTIONS, DONATIONS ETC.:

The Trustees shall be at liberty to call for, invite, collect, accept or receive subscriptions, donations etc from whosoever, either unconditionally or upon such conditions as they may approve of but shall not be inconsistent with or calculated to impede the due working of this scheme in cash or in kind, including movable or immovable property, in aid or for the purposes of the Trust.

39. REGISTERS OF MOVABLE AND IMMOVABLE PROPERTIES:

The Trustees shall prepare and maintain in a Pacca Bound book a complete list of movable and immovable properties of the said Trust in accordance with the provisions of Section 36-B of the Bombay Public Trusts Act, 1950, and Rule 24A of the Bombay Public Trusts Rules 1951.

40. CUSTODY OF DOCUMENTS:

The title deeds of the immovable properties of the said Trust shall be kept by the Trustee in safe at the Trust premises or in some safe deposit vault of a reputed Bank.

41. AMENDMENT TO THE SCHEME:

In all cases in which it is found necessary to have this Scheme or any clauses thereof amended, the Trustee or Trustees or any two or more persons having interest in the Trust shall have the right under this Scheme to apply to the Dy. Charity Commissioner, Greater Bombay Region, Bombay for the same.

42. LIABILITY OF THE TRUSTEES:

The Trustees shall be respectively chargeable only for such moneys as they shall actually receive notwithstanding their signing any receipt or cheque for the sake of conformity and shall not be answerable for the acts, receipts, omissions, neglects and default of any other person with whom or for any other



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loss unless the same shall happen through their own negligence, defaults, omission, breach of trust, misapplication or misconduct or misfeasance.


43. REIMBURSEMENT:

The Trustee or Trustees for the time being may reimburse themselves or pay and discharge from out of the Trust income, all expenses incurred in or about the execution of the trusts or powers under this scheme, including the costs, expenses and fees to be incurred and paid on a change of investment, expenses of keeping and publishing the accounts of the trust properties, the legal expenses etc provided however, that this right of reimbursement shall not be operative in the case of the Trustee who is held liable for loss caused to the said Trust by reason of his own acts of omission and commission.

44. REFERENCE TO THE DEPUTY CHARITY COMMISSIONER IN CASE OF DISPUTES:

In all cases in which it is found necessary to seek advice or directions or if any dispute arises about the interpretation or construction of any of the clauses/provisions of this scheme, the Trustees shall be entitled to refer the matter to the Charity Commissioner /Deputy Charity Commissioner whose decision shall ordinarily be final and conclusive.

Date : 22/03/12
Place : Mumbai


(P. R. Ashturkar)
Asst. Charity Commissioner
Greater Mumbai Region, Mumbai.



Certified to be a True Copy


Superintendent (J)
Public Trusts Registration Office
Greater Mumbai Region, Mumbai