

C I R C U L A R No. 93

Subject :- Section 37 (a) of the Bombay Public Trusts Act, 1950.
Interpretation of –Breaking open of the lock.

The Assistant Charity Commissioner, Belgaum, has raised a question whether the power to enter on and inspect any property belonging to a public trust under section 37 (a) given to Deputy /Assistant Charity Commissioner or any officer authorised by the State Government includes the power to break open the lock for the purpose of inspection of the trust property. The circumstances under which the reference was made by the Assistant Charity Commissioner were as under :-

A complaint was made to him that gold and silver ornaments of a public temple were misappropriated by the trustee. He, therefore, sent an Inspector for making a local inquiry and for inspecting the ornaments of the temple. The Inspector was informed by the trustee's brother that the trustee had gone to Goa and that some of the articles including ornaments were left by the trustee in the adjoining shop which did not belong to the temple. The shop was locked and the question arose whether the Inspector could break open the lock for inspecting the ornaments.

2. This question was referred to the Legal Department for opinion. The Remembrancer of Legal Affairs has opened as under :-

“The power to enter on any property may include power to break open the lock or use reasonable force for the exercise of the power. However, the property to be entered upon must be the property of the public trust. If the

ornaments which are the property of the public trust are lying in a shop which obviously does not belong to the public trust the authority under section 37 (a) can not be restored to for the purpose of entering on the shop premises and inspecting the ornaments deposited in the shop”.

D.R.Pradhan
Charity Commissioner, Bombay.

Dated 23rd March 1956.