

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.07.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.4527/2013

A/M Vedagireeswarar Thirukoil
Thirukazhukundram, Chengalpatty
Kancheepuram District
rep.by its Executive Officer

... 3rd Party Petitioner

Vs

Thirukazhukundram Annadhanam
Arubathimunru Nayanmargal
Baktha Jana Sabai, rep. by
[1]Chandrasekaran & [2]Ramesh

... Respondents/Petitioners

Civil Revision Petition filed under Article 227 of the Constitution of India,
against the order and decreetal order dated 11.07.2012 in Trust OP.No.160 of
2011 on the file of the learned Principal District Judge, Chengalpattu.

For Petitioner : Mr.A.K.Sriram for Mr.A.S.Kailasam

For Respondents : Mr.K.P.Gopalakrishnan

O R D E R

Challenging the order passed in the original petition in Trust
O.P.No.160/2011 on the file of the Principal District Court, Chengalpattu, the 3rd
party/petitioner has filed the above Civil Revision Petition.

2. Admittedly, the Trust is a Public Trust. The respondents filed a petition under section 34 of the Indian Trust Act before the Principal District Court, Chengalpattu, seeking permission to sell the properties for not less than Rs.350/- per sq.ft., or any other sum fixed by the Court and to deposit the sale proceeds in a Nationalised Bank. The learned Principal District Judge, Chengalpattu, entertained the Trust OP.No.160/2011 and allowed the petition permitting the respondents to sell the petition mentioned properties for not less than Rs.350/- sq.ft. to any third parties. Now, it is brought to the notice of this Court that the properties were sold and the sale proceeds were deposited in a Nationalised Bank.

3. Mr. A.K. Sriram, learned counsel appearing for the petitioner, at the outset, submitted that the petition filed under section 34 of the Indian Trust Act is not maintainable for the reason that the Trust is a Public Trust and the Indian Trust Act applies only to private Trusts. Further, the learned counsel submitted that the properties belonging to the temple should be protected and the respondents should have obtained the permission from the Hindu Religious and Charitable Endowment Department under section 34 of the Hindu Religious and Charitable Endowment Act. In support of his contention, learned counsel relied upon the judgment reported in **2006 [1] SCC 257** [*Joint Commissioner, Hindu Religious and Charitable Endowments Administration Department Versus Jayaraman and others*], wherein the Hon'ble Apex Court held that the Indian

Trust Act shall have application only in respect of the private Trusts and not in respect of the Public Trusts. When admittedly, the Trust is a Public Trust, the application filed under section 34 of the Indian Trust Act is not maintainable.

4.Mr.K.P.Gopalakrishnan, learned counsel appearing for the respondents fairly submitted that the petition filed under section 34 of the Indian Trust Act is not maintainable and that the order passed by the learned Principal District Judge, Chengalpattu, is liable to be set aside. The respondents should have obtained the permission under section 34 of the HR&CE Act, and not under the Indian Trust Act. The ratio laid down in the Judgment reported in **Jayaraman's case [cited supra]** squarely applies to the facts and circumstances of the present case.

5.In these circumstances, the order dated 11.07.2012 passed by the learned Principal District Judge, Chengalpattu in Trust OP.No.160/2011 is set aside and the purchasers of the properties are entitled to get the refund of the purchase money which is lying in the Fixed Deposit in the Nationlised Bank together with the accrued interest.

6.With these observations, the Civil Revision Petition is allowed. No costs.

Index : No
Internet : Yes

09.07.2015

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M. DURAISWAMY,J.,

AP

To

The Principal District Judge
Chengalpattu, Kancheepuram District.

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