

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 25TH DAY OF JANUARY 2018

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

O.P. No.324 of 2017

In the matter of Indian Trust
Act 1882

and

In the matter of T.Kuppuswamy
Chetty Trust represented by its
Managing Trust

1. T.Kuppuswamy Chetty Trust,
rep. by its Managing Trust,
2. A.Kuppammal,
W/o.T.M.Arumugam Chetty,
3. A.Selvaraj,
S/o.T.M.Arumugam Chetty,
1 to 3 are residing at T-4,
Sriram Apartment, No.10,
Kamalamegam Street, Mogappiar,
Chennai-600 037.
4. S.Shanmugam,
S/o.T.M.Subramani Chetty,
residing at No.26/T-3,
Srinivasa Apartments,
Kannagi Street, Venkatram Nagar,
Korattur, Chennai-600 037. ... Petitioners

Original Petition praying that this Hon'ble Court be
pleased to grant permission to sell the property situated at
New Door No.60, Old Door No.53, Mangapati Naicken Street,
Chintadripet, Chennai-600 002 and morefully described in the
schedule to Sri Swethamber Murthi Pujak Sangh, No.61,
Mangapati Naicken Street, Chintadripet, Chennai and deposit
the sale proceeds in Nationalized bank.

This Original petition coming on this day before this court for hearing the court made the following order:-

This Original Petition has been filed, under Section 34 read with Section 37 of the Indian Trusts Act, 1882, seeking permission to the 1st Petitioner Trust to sell the Schedule property and to deposit the sale proceeds in a nationalised bank.

2. The Schedule Property is as follows:-

"All that piece and parcel of land and house situated in the Northern row in New Door No.60, Old Door No.53, Mangapati Naicken Street, Chintadripet, Chennai-2, situated in RS.No.245 and the certificate no.936 measuring about 1006-3/8 sq.ft. situated within the registration District of Chennai and sub registration District of Periamet, Chennai."

3. It has been stated in the petition that the 1st Petitioner is T.Kuppuswamy Chetty Trust, which was formed by a trust deed created as per the settlement deed dated 14.10.1940 executed by late T.Kuppuswamy Chetty. The said trust deed was challenged in OS.No.81 of 1960, which was decreed and in AS.No.446 of 1962, as per Memo of Compromise, a scheme decree was passed on 28.4.1967. The very object of the Trust is stated in Clause 9 of the scheme decree. It has been stated that by order dated 27.10.2009 in IA.No.10435 of 2009 in OS.No.811 of 1960, the 3rd and 4th Petitioners were approved as the trustees of the 1st Petitioner Trust and similarly, the 2nd Petitioner was approved as the trustee by

order dated 5.4.2014 in IA.No.1488 of 2014 in OS.No.811 of 1960.

4. It has been stated that the trustees should manage the Trust as per the scheme decree. The building in the suit property has become very old and in a dilapidated condition and there is no income from the said property and there is no sufficient means to pay taxes, redevelop and reconstruct the suit property. As there was no income, the trustees are not able to administer the Trust effectively. Hence, it was decided to sell the suit property and accordingly, they called for offers from interested buyers. The adjacent owner, Sri Swethamber Murthi Pujak Sangh, No.61, Mangapati Naicken Street, Chintadripet, Chennai had expressed their interest to purchase the suit property. Hence, it has been stated that the Petitioner Trust may be permitted to sell the suit property to the said intending purchaser and deposit the sale proceeds in a nationalised bank for fulfilling the object of the trust. Hence, seeking permission to sell the Schedule property to the said intending purchaser, this OP has been filed.

5. The matter was posted before the Master for recording evidence. The 3rd Petitioner/ who is one of the Trustees of the 1st Petitioner Trust was examined as PW.1 and through him, Ex.P1 to Ex.P8 were marked. The Secretary, Prem Chand Jain of the intending purchaser, was examined as PW.2

and through him, Ex.P9 to Ex.P13 were marked. Ex.P1 to Ex.P13 are as under:-

- 1.Ex.P1 is the copy of the scheme decree passed in AS.No.446 of 1962 dated 20.4.1967.
- 2.Ex.P2 is the copy of the order passed in IA.No.10435 of 2009 in OS.No.811 of 1960 dated 27.10.2009.
- 3.Ex.P3 is the copy of the order and decree passed in IA.No.1488 of 2014 in OS.No.811 of 1960 dated 5.4.2014.
- 4.Ex.P4 is the copy of the settlement deed with translation dated 16.10.1940 in CS.No.150 of 1944.
- 5.Ex.P5 (series (5 nos.) are the photocopies of property tax receipts in respect of the suit property.
- 6.Ex.P6 is the copy of the minutes of the meeting dated 20.10.2014.
- 7.Ex.P7 is the copy of the minutes of the meeting dated 13.05.2015.
- 8.Ex.P8 is the copy of the minutes of the meeting dated 23.09.2016.
- 9.Ex.P9 is the original agreement of sale dated 14.06.2006 between the Petitioners and the intending purchaser.
- 10.Ex.P10 is the original offer letter by the intending purchaser.
- 11.Ex.P11 is the encumbrance certificate dated 10.01.2018 in respect of the property mentioned in the petition.
- 12.Ex.P12 (series) (8 nos) are the copies of fixed deposit receipts in Chennai Central Cooperative Bank Limited (Broadway) by the intending purchaser.
- 13.Ex.P13 is the copy of the guide line value in respect of the suit property.

6. It is seen from the evidence that even in June 2006, the intending purchaser, Sri Swethamber Murthi Pujak Sangh, had entered into an agreement of sale with the 1st Petitioner trust to purchase the suit property for a sale consideration of Rs.9,50,000/-. However, since now the market value has been increased, the intending purchaser is willing to buy the suit property as per the guide line value of Rs.38 lakhs.

7. In view of the above, this OP is allowed. Accordingly, the 1st Petitioner Trust is permitted to sell the schedule property to the intending purchaser, Sri Swethamber Murthi Pujak Sangh, for a sale consideration of Rs.38,00,000/- (Rupees thirty eight lakhs only). The sale shall be completed on or before 28.02.2018 and after effecting sale, the Petitioner Trust may again approach this Court for confirmation of the sale in accordance with law. The Petitioner Trust shall adhere to the procedures and the legal requirements contemplated under law, while carrying out the tasks as prayed in this Original Petition.

Sd./-C.V.K.J
25/01/2018

//Certified to be true copy//
Dated at Madras this the day of 2018.

jj 17/04/2018

COURT OFFICER(O.S.)
From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.