

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

C.R.P. (NPD) No. 3200 of 2019

Thulasiram Memorial Charitable Trust,
Represented by its Managing Trustee,
Mr. R. Kulasekar,
S/o Ramakrishna Naidu,
Old No. 26, New No. 206,
Avarampalayam Road,
New Siddhapudur,
Coimbatore 641 044. ... Petitioner

Vs.

1. K. Usha
2. S. Nithya
3. D. Mohanasundaram
4. Aliasgar Nasir Siawala ... Respondents

Prayer : Petition filed under Article 227 of the Constitution of India against the order dated 14.02.2019 passed in Trust Original Petition No. 134 of 2017 on the file of Principal District Judge Court at Coimbatore.

For Petitioner

: Mr. P. Saravanan

ORDER

This Civil Revision Petition has been filed against the order passed in Trust Original Petition No. 134 of 2017 by the learned Principal District Judge, Coimbatore, by order dated 14.02.2019

2. Heard Mr. P. Saravanan, learned counsel appearing for the petitioner who would submit that, the petitioner is a Trust and in order to have an effective administration of the Trust, the petitioner Trust wanted to sell the property belongs to the petitioner to the third party i.e., fourth respondent herein and in this regard, as per enabling provision under Section 34 of the Indian Trusts Act, 1882, the said Trust Original Petition No. 134 of 2017 was filed seeking permission from the Court below to sell the property of the Trust to in favour of the fourth respondent for a valid sale consideration of Rs. 49,34,542/-.

3. After considering the request of the petitioner Trust, the learned Principal District Judge, Coimbatore has allowed the said O.P., by giving such permission to sell the property for a sale consideration to in favour of the fourth respondent and given further direction to deposit

the sale proceedings in a Fixed Deposit and the accrued interest is directed to be received by the petitioner Trust.

4. Though the petitioner has no grievance over the said order and in fact what has been asked for by the petitioner Trust had been allowed in the said impugned order, the fourth respondent has not come forward to purchase the property as directed or permitted by the Court below and therefore, as a modification to the said order, the petitioner Trust wanted the property to be sold to any third party, who come forward to pay the sale consideration already fixed in this regard through the impugned order. Therefore, only for the purpose of modifying the order of the learned Principal District Judge, Coimbatore dated 14.02.2019, the present revision has been filed.

5. I have heard the submissions made by the learned counsel appearing for the petitioner and perused the materials placed before this Court.

6. That rightly under Section 34 of the Indian Trusts Act, 1882 as invoked by the petitioner Trust, which is an advisory jurisdiction, where the Principal Civil Court of each District are concerned, has been empowered to give its opinion, advice or direction on any questions vest before the Court in respect of management or administration of the Trust property, the learned Judge has passed the said order allowing the said Trust Original Petition No. 134 of 2017, where the direction sought for with or permission required to sell the property of the Trust to the third party i.e., fourth respondent has been allowed with some more directions.

7. Pursuant to the said direction, if the petitioner Trust finds any difficulty, as the fourth respondent, as claimed by them, has not come forward to purchase the property and in this context, if the petitioner Trust wants to have a modified order to sell the property to any third party with same condition i.e., sale consideration etc., it is open to the petitioner Trust to apply for such modification, before the Court below, i.e., the learned Principal District Judge, Coimbatore, to seek such modification. In stead of that, the petitioner Trust has chosen

to approach this Court, by invoking Article 227 of the Constitution of India which vest superintending power on High Court over the Courts and Tribunals within the jurisdiction of that High Court.

8. I have gone through the impugned order passed by the learned Judge. The very O.P. filed by the petitioner Trust was allowed and necessary directions was given, however the directions could not be worked out because of the attitude of one of the party and in that case, if the petitioner wants any modification, he shall approach only the Court below invoking the very same advisory jurisdiction under Section 34 of the Indian Trusts Act, 1882, which vest with the Principal Civil Court and not invoking superintending power of this Court under Article 227 of the Constitution of India of this Court. Absolutely there is no infirmity in the said order, which is impugned herein, moreover, if the petitioner seeks any modification, such modification can be sought for by filing necessary / proper application before the Court below by invoking the very same Section 34 of the Indian Trusts Act, 1882.

R.SURESH KUMAR, J.

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9. In that view of the matter, this Civil Revision Petition is not entertainable by this Court invoking Article 227 of the Constitution of India and in that view of the matter with the above observations, this Civil Revision Petition is dismissed. No costs.

26.09.2019

Index: Yes / No

Speaking order / Non speaking order

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To

The learned Principal District Judge,
Coimbatore.

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