

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 06.11.2019

Pronounced on : 07.11.2019

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.S.No.559 of 2019

1. Jaigopal Garodia Foundation,
Rep. by its Managing Trustee,
Mr.Ashok Kedia.
2. Mr.Ashok Kedia,
Managing Trustee,
Jaigopal Garodia Foundation.
3. Om Prakash Agarwal,
Trustee,
Jaigopal Garodia Foundation.
4. R.Nagarajan,
Trustee,
Jaigopal Garodia Foundation.
5. Hitesh Kanodia,
Trustee,
Jaigopal Garodia Foundation.

... Plaintiffs

Plaint filed under Section 92 (1) (f) of CPC read with Order IV Rule 1 of O.S.Rules and order VII Rule 1 of CPC, praying for judgment and decree as follows:

permitting the plaintiffs to sell the Trust Property, morefully described in the schedule hereunder to and in favour of the intending purchaser.

For Plaintiffs : Mr.E.Senthil Kumar
for M/s.Sampath Kumar & Associates

JUDGMENT

The present suit has been filed under Section 92 (1) (f) of CPC seeking permission to sell the suit schedule property to and in favour of the intending purchaser.

2. The plaintiffs would state that the first defendant is a public trust while the defendants 2 to 5 are its trustees. The first plaintiff-Trust was founded by Shri Jaigopal Garodia, in the year 1974 and it is functioning since then as a non-profit, tax exempted and service organization dedicated to the service of the nation to promote Nationalism and Patriotism.

3. It is further stated that Smt.Sitadevi Garodia, wife of Shri Jaigopal Garodia became the absolute owner of the suit schedule property vide registered sale deed dated 19.08.1981. She died intestate and issueless on 13.08.1987 leaving behind her husband as the only legal heir. The said Jaigopal Garodia / founder of the first plaintiff died on 02.04.2010 leaving his last Will and Testament dated 27.06.2002, wherein he bequeathed the suit schedule property in favour of the first plaintiff and also expressed his desire as to how his properties should be devolved upon.

4. It is further averred in the plaint that the second plaintiff was appointed as Executor of the Will and the Will was probated in O.P.No.729 of 2010. The desire of the testator in bequeathing the property in favour of the Trust is to properly manage the income and the assets are properly used for Educational and Animal welfare activities and other charitable purposes.

5. The plaintiffs would state that the first plaintiff purchased lands at Paruthipattu Village in Poonamallee Taluk to construct a new School and College in the said lands and to achieve the object, in the Trust meeting held on 12.07.2019, it was resolved to sell the suit schedule property, which was bequeathed by the founder in favour of the Trust.

6. It is further stated that the sale proceeds of the house property after payment of statutory dues would be utilised for the specific purpose of construction of School / College at the lands purchased in Paruthipattu Village, Tiruvallur District. It is further stated that the Clause 11 of the deed of Trust dated 12.09.1974, authorises the plaintiffs to sell the property after obtaining permission from the Court.

7. The learned counsel for the plaintiffs would submit that the plaintiffs had appointed a licensed surveyor to value the suit property, in support of which, Exs.P11 and 12 were marked and the second plaintiff examined himself as PW1 and marked the documents Exs.P1 to P10. Thus, the plaintiffs have established their case to sell the property.

8. Considering the above facts and the evidence of PW1, this Court is of the considered opinion that the plaintiffs have established their case through oral and documentary evidence. Accordingly, the plaintiffs are entitled for decree as prayed for. Resultantly, the suit is decreed as prayed for. No costs.

07.11.2019

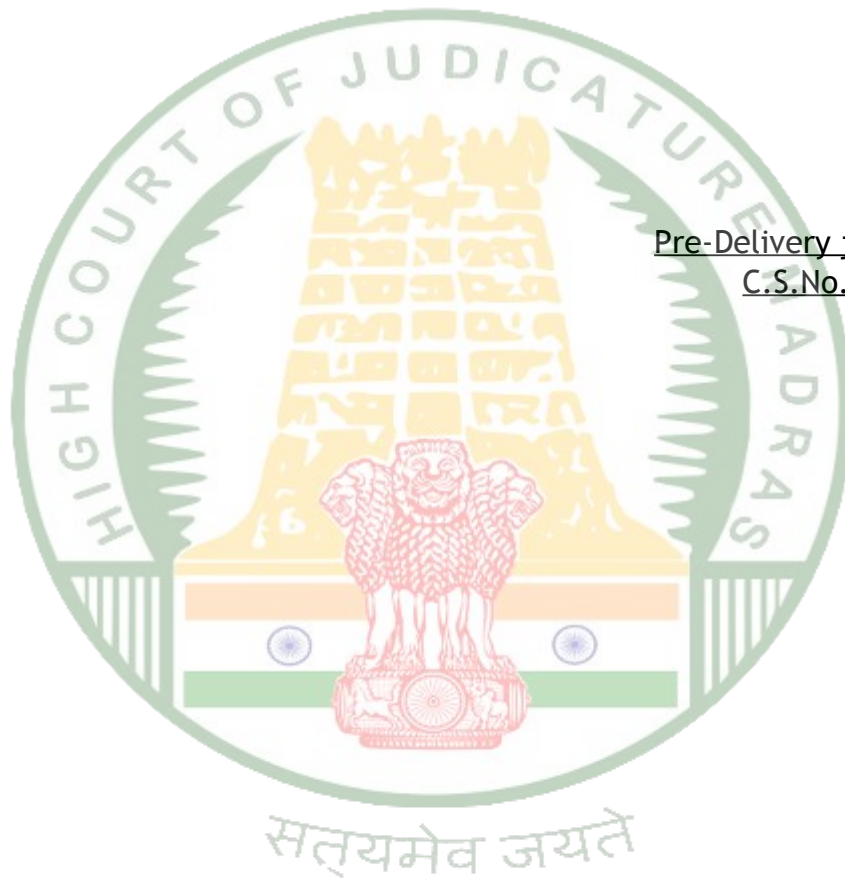
Index : Yes/No
Internet: Yes/No
Speaking Order/Non Speaking Order
pvs

To
The Sub Assistant Registrar,
Original Side,
High Court, Madras.

C.S.No.559 of 2019

K.KALYANASUNDARAM, J.,

pvs



Pre-Delivery judgment in
C.S.No.559 of 2019

07.11.2019

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