

O.P.Nos.886 to 890 of 2019

SENTHILKUMAR RAMAMOORTHY, J.

These Petitions are filed under Section 7 of the Charitable and Religious Trust Act 1920 read with the Original Side Rules for approval of the scheme framed by the Trust in paragraph Nos.10 to 12 to lease the land described in the respective prayer paragraphs of the respective Petitions and to call for public offers by placing advertisement in news paper, scrutinize the offers in consultation with the property consultant and to execute a registered lease deed with the prospective lessee.

2. I heard the learned Senior Counsel, Mr.Sriram Panchu, for the Petitioner in all the Petitions. The learned Senior Counsel submitted that these properties were bequeathed under the Will of Sir John D'Monte and that the sole trustee of the Sir John Demonte Trust (the Trust) is the Archbishop of Madras-Mylapore. He further submitted that the Trust is a public trust and that it is not permitted to sell the properties but is permitted to enter into leases or to develop the properties so as to provide for the objects and the purposes of the Public Trust. Accordingly, he submits that the Petitioner identified M/s.Jones Lang Lasalle (JLL) as the property

consultant to develop and lease the properties on the most advantageous terms for the Trust by executing the project initiation form with the said JLL.

3. He further submitted that evidence was recorded in the matter and that the representative of the Trust, Rev.Fr. B.Stephen was examined as P.W.1 and the representative of JLL was examined as P.W.2. In the examination-in-chief of P.W.1, he pointed out that ten documents including the Probate Order dated 28.09.1827(Ex.P2), the last Will and Testament dated 19.07.1820(Ex.P3), the Codicil to the last Will and Testament dated 25.04.1821(Ex.P4), the order of the Supreme Court dated 19.01.2012 in Civil Appeal No.3052 of 2006(Ex.P5) and documents related to the present scheme and the proposed appointment of JLL (Exs. P6 to P10) were exhibited. On the above basis, he submitted that these Petitions may be allowed so as to enable the Trust to enter into an appropriate transaction in respect of the properties and augment its revenues so as to fulfill the objects of the Trust.

3. I considered the submissions of the learned Senior Counsel and examined the Petitions and the evidence recorded in support thereof. I find that the Rev. Fr. B. Stephen was examined as P.W.1 and the following exhibits were marked through the said P.W.1 in

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- (1)Ex.P1 - Original special power of attorney dated 08.09.2019.
- (2)Ex.P2 - Certified copy of the Probate order dated 28.09.1827 granted by the Supreme Court of Judicature at Madras along with the last Will and Testament and Codicil of Sir John Monte.
- (3)Ex.P3 - Typed copy of the last Will and Testament dated 19.07.1820 executed by Sir John De Monte.
- (4)Ex.P4 - Typed copy of the Codicil of the Will and Testament dated 25.04.1821 executed by Sir John De Monte.
- (5)Ex.P5 - Certified copy of the order dated 19.01.2012 by the Supreme Court of India in Civil Appeal No.3052 of 2006.
- (6)Ex.P6 - Original project initiation form.
- (7)Ex.P7 - Original printed copy of the head of terms.
- (8)Ex.P8 - original printed copy of the commercialization approach.
- (9)Ex.P9 - original printed copy of the site summary.
- (10)Ex.P10 - Brochure.

In O.P. No.890 of 2019, the same set of documents were marked through P.W.1, as stated above, except Ex.P9-original printed copy of the site summary.

4. The property consultant was examined as P.W.2 and P.W.2 has set out the documents on which P.W.2 has relied upon in the proof affidavit dated 09.12.2019.

5. Based on the foregoing, I find that the lease and development of the properties is permitted under the Last Will and Testament (Ex.P3). Secondly, I notice that the Hon'ble Supreme Court, by order dated 19.01.2012 (Ex.P5), permitted the trustees to lease or deal with the properties subject to court permission under Section 7 and also recorded an undertaking to that effect. The Supreme Court also held that the court considering such application for permission could do so on merits. Keeping in mind the above facts and circumstances, including the proposal for development and the fact that JLL is a reputed real estate consultant with a global presence, I am of the view that it would be in the interest of the Trust to proceed with the proposed property development.

6. Therefore, the scheme framed by the Trust in paragraphs 10

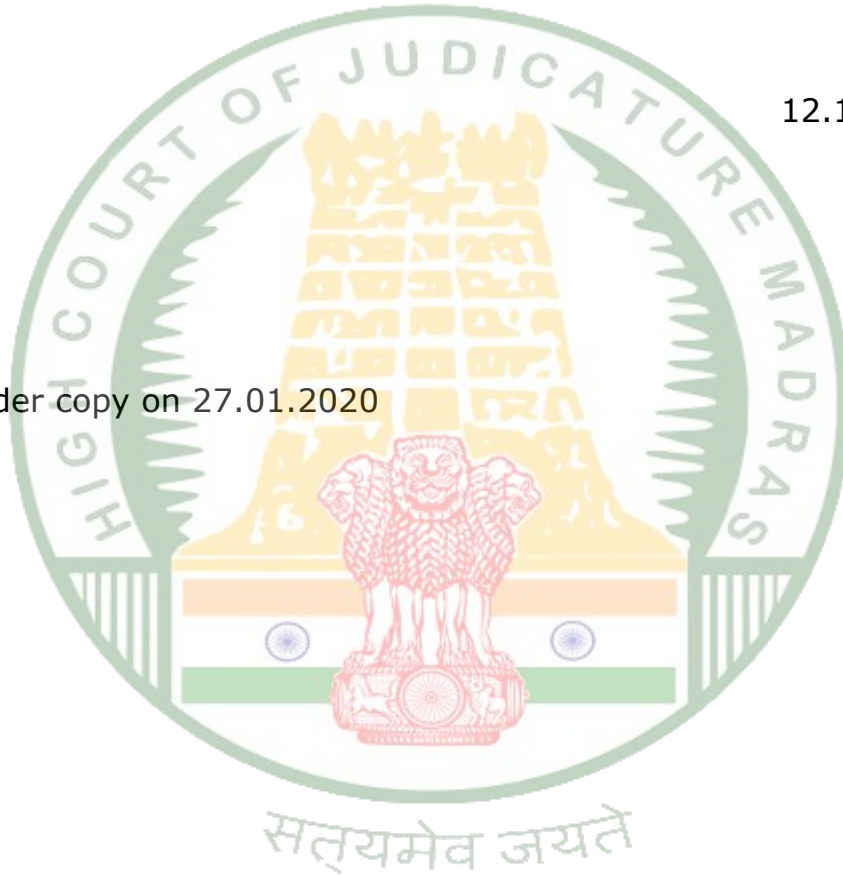
to 12 of the respective petitions is approved and the Petitioner is permitted to proceed with the actions specified in paragraph 18 of the respective Petitions. Accordingly, these Petitions are allowed as prayed for.

12.12.2019

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Note:

Issue order copy on 27.01.2020

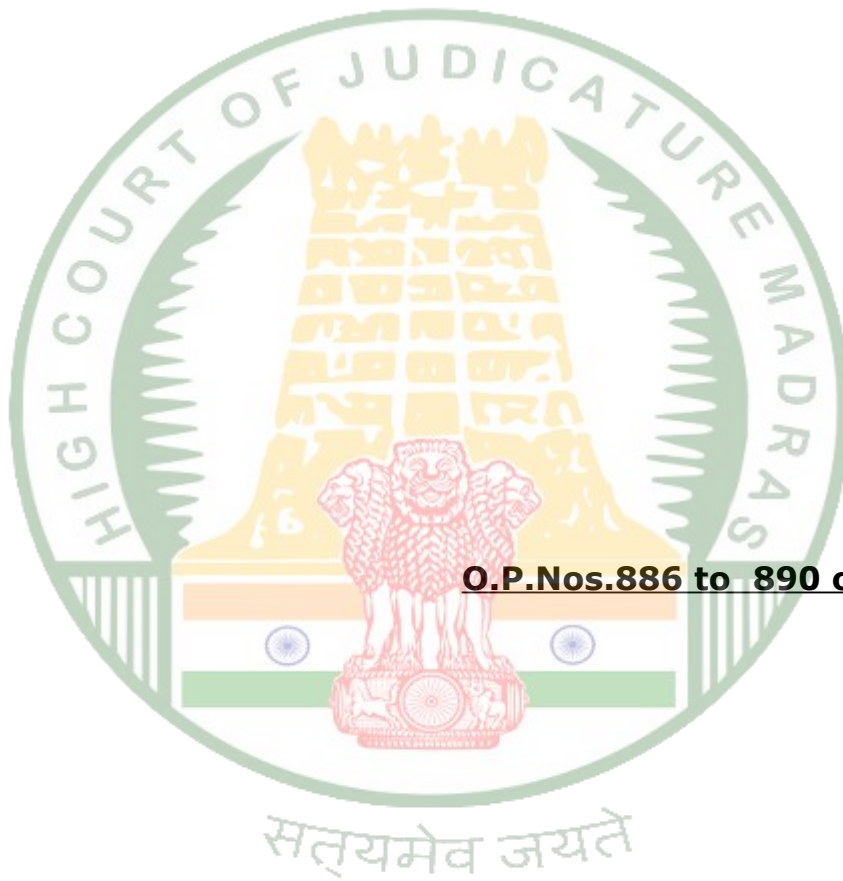


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