

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2020

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

O.P.No.225 of 2020

Aalim Muhammed Salegh Trust
having registered office at
Hizara Bonanza,
813, Anna Salai,
Chennai-2.

represented by its

- 1.M.S.Habeebunnisa (Chairperson)
 - 2.S.Ahamed Nasrin (vice Chairperson)
 - 3.S.Segu Jamaludeen (Secretary)
 - 4.K.S.M.B. Ahamed Yaseen (Joint Secretary)
 - 5.M.Y.Ahamed Hijaz (Treasurer)
 - 6.S. Hameed Samsudeen (Managing Trustee)
 - 7.M.S.Sadaq Ali (Managing Trustee)
 - 8.S.S. Hasiba
 - 9.S.F. Hasifsa
 - 10.H Fayisath Regina (Trustee)
 - 11.Shafeeka (Trustee)
 - 12.M.Razook (Trustee)
 - 13.Shaik Athaullah (Trustee)
 - 14.M.I. Mohamed Baig (Trustee)
- ... Petitioners

Prayer: Original Petition filed under Section 34 of the Indian Trust Act, 1882, to permit the petitioner to sell the petition trust property described in the schedule hereunder for sale consideration of Rs.30 lakhs per acre in favour of M/s Info Netcom Enterprises Private Limited having registered office at 468/10, Tiruchengode Road, Balaji Nagar, Namakkal, Tamil Nadu or its nominee or nominees.

For petitioner : Mr.N.A. Nissar Ahamed

ORDER

The petitioner Trust before this Court is the Aalim Muhammed Salegh Trust. The petitioner has filed this petition seeking permission of this Court to sell the trust property for a sale consideration of Rs.30 lakhs per acre in favour of M/s Info Netcom Enterprises Private Limited.

2.In the petition, the petitioner would submit that the petitioner/trust had properties in Ikkadu Kandigai Village and Kalyanakuppam Village, Tiruvallur Taluk and Tiruvallur District, measuring an extent of 33 acres

and 43 cents respectively under various registered Sale Deeds. The objects for which the petitioner trust was formed is to promote education, provide relief to secure the cultural and economic Welfare and establish and run schools, colleges, homes for orphans and destitute children and poor deserving women, etc., The schedule mentioned property is the absolute property of the petitioner Trust. The petitioners would submit that the property in question which has been more fully described in the petition is lying idle and barren and not yielding income.

3.The petitioner trust in furtherance to its objects is proposing to commence M.A.Engineering Course, M.Arch Course, and Diploma in Civil Engineering Course along with women/men's hostel providing the required infrastructure. In order to put up these facilities/constructions, the petitioner Trust requires funds and therefore had proposed to sell this property which as it has not been yielding any income.

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4.The petitioner Trust had earlier approached this Court moving a similar application for selling a portion of the property to M/s.Sriram

Education Trust at the rate of Rs.37,50,000/- per acre. The petitioner was permitted to sell the property and they were directed to utilize the entire sale consideration for the betterment of the trust and to account for the same.

5.However, pursuant to the orders of this Court permitting the sale, M/s.Sriram Education Trust declined to purchase the property stating that the property is not suited for their needs.

6.In that interregnum, the market value of the property had come down drastically and M/s.Info Netcom Enterprises Private Limited expressed their desire to purchase the property, however, at the rate of Rs.30 lakhs per acre. The petitioner would submit that the market value of the scheduled property in the year 2012 was of Rs.75 lakhs. Thereafter, when M/s.Sriram Education Trust proposed to purchase the property the value was reduced to a sum of Rs.37,50,000/- although the guideline value was a sum of Rs.50,25,000/-. Now, by passage of time, the market value has further reduced to a sum of Rs.30,00,000/-. In view of their

requirement for funds for putting into action the proposal to construct the buildings for the PG Courses, the present petition has been filed.

7.The 3rd petitioner one of the Trustee's had adduced evidence as PW1 and marked Ex.P.1 to Ex.P.9 which are hereinbelow as follows:

1	Ex.P.1	Photocopy of the Supplementary Deed of Trust dated 11.01.2012 (marked after comparing and verifying with the original)
2	Ex.P.2 (series 18 Nos)	Certified copy of photocopies of the Sale Deeds (Photocopies of the Sale Deeds are marked after comparing and verifying with the original)
3	Ex.P.3 series	Downloaded copy of the Encumbrance Certificate of Trust properties.
4	Ex.P.4	Certified copy of the order dated 28.07.2015 in O.P.No.457 of 2015 passed by this Hon'ble Court.
5	Ex.P.5	Photocopy of the Resolution by the Trust dated 16.12.2019 (marked after comparing and verifying with the original)
6	Ex.P.6	Photocopy of the letter dated 21.12.2019 by Sriram Educational Trust (marked after comparing and verifying with the original)
7	Ex.P.7	Original consent letter dated 09.12.2019 given by the purchaser
8	Ex.P.8	Affidavit of the third party
9	Ex.P.9	Affidavit of the third party

The witness in his proof affidavit has also stated that the market value of the property had drastically reduced from its value in the year 2012.

8.Mr.Nizzar Ahamed, learned counsel appearing on behalf of the petitioners would contend that the petitioner/Trust requires to sell the schedule property in order to meet their requirements of funds for putting up the construction for the PG Courses. The learned counsel further argued that the original Agreement holder for whom necessary orders have been obtained in O.P.No.457 of 2015 was reluctant to purchase the property since the schedule property did not have a road frontage as the portion abutting Thiruvallur - Red Hills Road has been encroached. Consequently, it was only a small passage that was now the access to the schedule property. That apart, two water bodies cut across the schedule properties and for these reasons, there are no takers as far as the properties are concerned. On the directions of this Court, the learned counsel has also produced the guideline value which clearly indicates that there has been a drastic fall in the price of lands in the said area. As on 01.04.2012, the guideline value which was Rs.75 lakhs drastically dropped to Rs.50,25,000/- from 09.06.2017. The learned counsel would submit that the parties are not willing to purchase the property even as per the

guideline value and the reason for the earlier Agreement holder reneging from the Contract was because of the disadvantage surrounding the properties.

9.Heard the learned counsel appearing for the petitioners and perused the material on record.

10.This Court has permitted the sale of the property in the year 2015 for a sum of Rs.37,50,000/-. The person for whom the permission of the Court was sought for had withdrawn the offer on account of the disadvantageous location of the scheduled property. The petitioner has filed a Sketch which shows that the entire frontage of the property has been encroached and the access to the property is through a small pathway and that apart, the property in question is fragmented as two water bodies cuts across the properties to its entire breadth. Therefore, no useful purpose would be served by continuing to hold on the properties.

11.That apart, the guideline value produced would clearly indicate

that the price of land has crashed from what is was in the year 2015, In 2015, the land which was selling for Rs.75 lakhs is now selling only at Rs.30 lakhs. If the petitioner Trust is made to wait there is every likelihood of the market value further coming down which would be a loss for the petitioner Trust.

In these circumstances, this Court is of the view that the application can be ordered and the Trust permitted to sell the property for the betterment of the Trust. This Original Petition is allowed accordingly. A copy of the Sale deed shall be filed into Court in this Petition.

28.07.2020

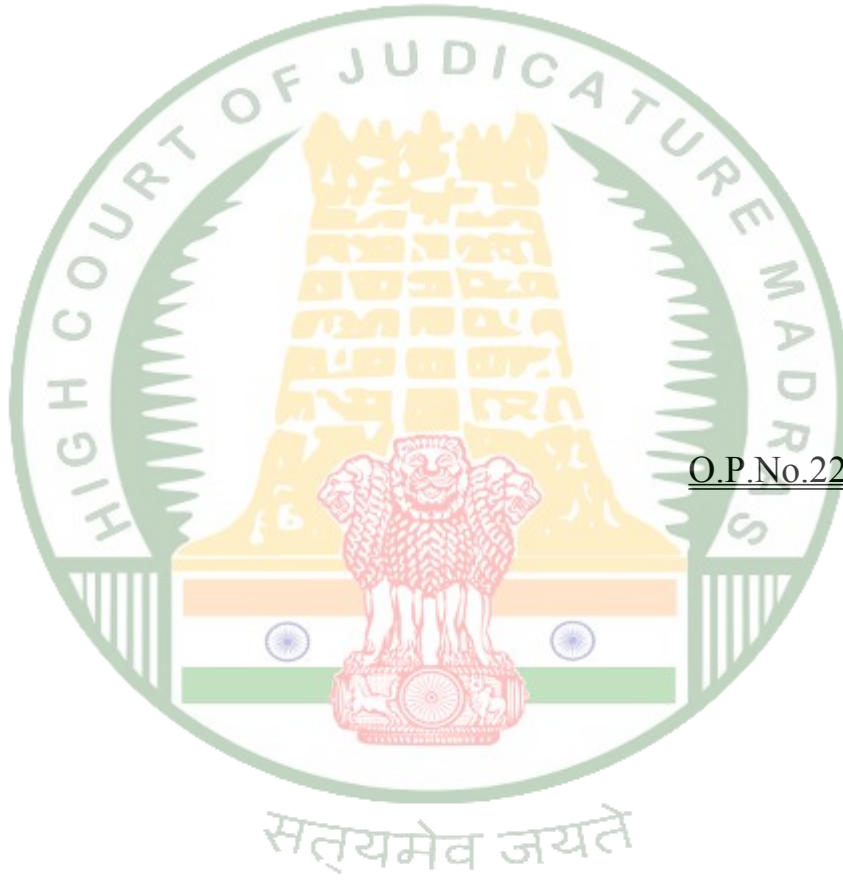
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P.T. ASHA. J.,

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