

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Application Nos.1961 and 1962 of 2020

in

CS.No.15 of 1950

(Heard through video conferencing)

The Official Trustee of Tamil Nadu,
High Court Campus, Chennai-600 104.

.. Applicant in both the applications

Judge's Summons issued under Order XIV Rule 8 of the Original Side Rules of this Court and under Section 25 of the Official Trustee's Act 11 of 1913 and A.No.1961 of 2020 in CS.No.15 of 1950 is filed praying to make necessary paper publication **in any one of the Tamil Newspaper in Chennai Edition**, regarding the public auction for the property **detailed in the schedule of property** with this application for the upset monthly rent of Rs.2,00,000/-.

Judge's Summons issued under Order XIV Rule 8 of the Original Side Rules and under Section 25 of the Official Trustee's Act 11 of 1913 and A.No.1962 of 2020 in CS.No.15 of 1950 is filed praying to permit the total

cost for paper publication and inspection expenses is to be metted out from the Trust Estate of Bavanandam Academy.

For applicant in both the applications: Mr.P.Murugan, A.G. & O.T.

COMMON ORDER

A.No.1961 of 2020 in CS.No.15 of 1950 is filed praying to make necessary paper publication in any one of the Tamil Newspaper in Chennai Edition, regarding the public auction for the property detailed in the schedule of property with this application for the upset monthly rent of Rs.2,00,000/-.

2. A.No.1962 of 2020 in CS.No.15 of 1950 is filed praying to permit the total cost for paper publication and inspection expenses is to be metted out from the Trust Estate of Bavanandam Academy.

3. The learned A.G. & O.T. has filed a report, dated 05.09.2020, stating as follows:

i) Nearly about 200 Trust Estates are being administered by the

Administrator General and Official Trustee of Tamil Nadu. From and out of the Trust Estates both the Administrator General and Official Trustee sides there were about 500 properties let out to various tenants for Residential and Non-Residential purpose on monthly rent basis and also yearly lease basis for agricultural land.

ii) As of now, one [1] property in Old Door No.68, New Door No.8, Jermiah Road, Vepery, Chennai-7 is kept vacant and no lease exists as on date. The OT has to take necessary steps to lease out the property to fetch income for charity purpose and the interested person may take the property for rent or lease basis. The property is connected to Trust Estate of Bavanandam Academy.

iii) In the recent past, the property in a old building in D.No.68, Jermiah Road, Vepery, Chennai-7 to an extent of 3,812 Sq. Ft. was leased out to one Mr. S.Balaji, resident of Perambur, Chennai-11 for monthly rent of Rs.1,60,000/- w.e.f. 13.03.2020. After the COVID-19 pandemic lockdown the lessee has surrendered the lease at his own reason and the lease surrender

was with effect from 27.07.2020. For that lease period, the rent was adjusted from the advance amount as per proceeding dated 17.08.2020. Since then the said property is kept vacant. In addition to that, in the same building another portion 933 Sq. Ft. of old building is kept vacant in between the beneficiary portion and another portion referred above which had been used as library portion. Recently, a library building was constructed adjoining to the old building on the northern side for exclusive use of library purpose. The old library portion of 933 Sq. Ft. may also be leased out along with the other portion mentioned supra.

iv) The Old Door No. 68, New Door No.8, Jermiah Road, Vepery, Chennai-7 is a vast extent of land and building. On the extreme western side there is one building facing on the Jermiah Road which was leased out to one Mr. santhanam and he has been paying monthly rent of Rs.36,000/-. Towards adjoining to that building on the eastern side there is a vast passage leads to beneficiary portion and also to new library building. Even after the vast passage, there is a vacant land about 5,692 Sq. Ft. in front of the old building adjoining to the Jermiah Road. The vacant land can also be put in use by way

of lease. In this regard, to know the exact vacant land, since the post of Junior Engineer attached with the O/o AG & OT is kept vacant for more than a year, a private civil engineer assistant was sought for to measure the vacant land by demarking common passage to the beneficiary portion, new library building and other purpose a report and plan was sought for.

v) The engineer has submitted his report and plan dated 03.09.2020. Out of which about 165 Sq.M. [1,775 Sq. Ft.] was earmarked as common passage towards western side of the land. The width of the common passage is about 19 Sq. Ft. which can be easily for any transportation. After that there is an open area of 529 Sq.M. [5,692 Sq. Ft.]. Since the open area of 5692 Sq. Ft. is more than 2.37 grounds of land and to generate rent from the open land and the old building of previous leased property of 3,802 Sq. Ft. and also old library portion of 933 Sq. Ft. a single lease may be effected for altogether 3 portion in a single lot of 10,437 Sq. Ft. consisting of partially vacant land and partially old building. The existing old building may not be put in use because it got dilapidated. If any interested third party took the lease of 10,437 Sq. Ft. of land and building, he may be permitted to develop the property for building up new construction either for residential or for

commercial purpose as may be decided by Hon'ble Court once leased out. Therefore, the property, in Old No.68, New No.8, Jermiah Road, Vepery, Chennai-7 consisting of 10,437 Sq. Ft. may be brought in a public auction for lease. Once the public auction is conducted and the highest bidder be confirmed by this Hon'ble Court, then the existing western side gate on the Jermiah Road is to be re-fixed extreme to the western side by earmarking common passage of 19 Sq. Ft.

vi) Considering the conditions of the building with vacant land, it is decided to lease out **“as is where condition”**. After the interested person entered into a lease, he may be permitted to build up a new construction on and in the land at his own money, for long time lease after demolishing the existing old building with prior orders of the Hon'ble High Court and also building approval plan from competent authority. For arriving the monthly rent upset price, the present guideline value is taken for consideration, but not in entirety. Tentative rent assessment is done, which is lesser than the guideline value estimation.

vii) The following tabular column will give a clear picture about the name of the Trust, address of the property, nature of the property, extent of the property, guideline value and upset monthly rent as tentatively decided by OT, to the respective property for better appreciation.

Sl. No	Trust Name	Property Address	Nature of Property	Lease Area in Sq. Ft.	Guideline Value In Rs. per Sq. Ft. (6)	Upset Monthly Rent in Rs. (7)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Bavanandam Academy	Old No.68, New No.8, Jermiah Road, Vepery, Chennai-7.	Vacant land and old building	10,437	8,040/-	2,00,000/-

viii) There are instances that the OT was/is unable to collect the arrears of rent, water charges, and electricity charges in huge amount once tenants vacated and their whereabouts are not known to the OT. Even an earnest effort taken, the whereabouts of the tenants would not be traced out. In view of the above, the OT is of the firm opinion that an adequate caution deposit in addition to security deposit may be received from the tenants at the time of entering into a lease / rental agreement. It would be in a better position to adjust the caution deposit towards the arrears of rent, water charges and

electricity charges due if any. The experience shows that in most of the cases, no immediate action was initiated in the past when the tenants committed default to pay the monthly rent. If an action could have been taken at the earliest point of time there could be chances either to recover the arrears of rent, water and electricity bill charges or to recover vacant possession. Even to that aspect it would normally take minimum a year period to get anything to be done.

ix) Sec. 11 of the Tamil Nadu Regulation of Right and Responsibilities of Landlords and Tenants Act, 2017 directs that maximum of 3 times of monthly rent may be received as security deposit. In the same line of analogy, the OT may be permitted to receive 3 months' rent as security deposit (Rental Advance). In addition to that 7 times of monthly rent may be collected as caution deposit for the purpose of if any arrears of rent or damages for use and occupation or damages for the building and the same be adjusted from the deposits without heavy loss to the office of the OT. Altogether 10 months' rent may be collected as rental advance and caution deposit.

x) In view of the above, this application is filed seeking permission of this Hon'ble Court to grant permission for paper publication to conduct public auction to know the general public and followed by call for tender, then to conduct public auction in the office of AG & OT, and thereafter, file a report before this Hon'ble Court for confirmation etc.

4. Hence, the above applications have been filed for the reliefs stated supra.

5. This Court heard the submissions made by the learned A.G. & O.T. and perused the materials available on record.

6. Taking into consideration the above report submitted by the learned A.G. & O.T., and on a perusal of the same, this Court accepts the said report and accordingly, both these applications are ordered as prayed for.

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Speaking Orders: Yes

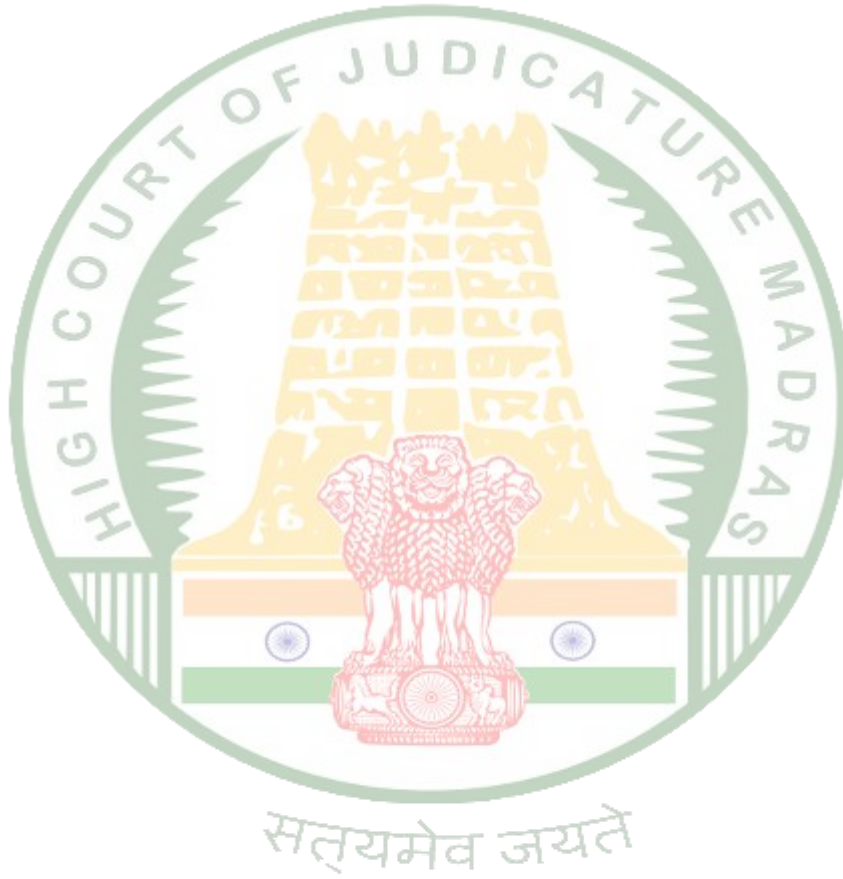
pvs

To

The Administrator General and Official Trustee of Tamil Nadu,

High Court,

Madras.



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pvs



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