

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.07.2020

Delivered on : 30.07.2020

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.S.No.529 of 2019

1. Panduranga Bhajanai Koil Trust
Rep. by its Trustee
Mr.G.Prasanna Kumar
New No.2 (Old No.56),
Baroda Street (Railway Border Road),
West Mambalam,
Chennai – 600 033.

2. G.Prasanna Kumar

3. P.Varalakshmi

4. G.Anuradha

5. G.Shalini

... Plaintiffs

Vs

M/s. International Society for Krishna
Consciousness known as ISKCON
Bakhthivedanthaswami Road,
(Off East Coast Road),
Injumbakkam, Chennai – 600 041.

... Defendant

Prayer: Suit filed under Section 92 of the Civil Procedure Code read with Order VII Rule 1 of the Code of Civil Procedure and Order IV Rule 1 of the Original Side Rules praying to permit the plaintiffs 2 to 5 as Trustees of Panduranga Bhajanai Koil Trust, to gift the property being an extent of 444 Sq.ft., Door No.10/87, Maddox Road, Vepery, Chennai – 600 007, comprised in Survey No.868/1, Block No.21 of Veprey Village, previously Purasawakkam – Perambur Taluk, presently Purasawakkam Taluk, more clearly described in the schedule herein to M/s.ISKCON (International Society for Krishna Consciousness), the defendant, by executing and registering the necessary Gift Deed absolutely.

For Plaintiffs : Mr.V.Kuberan
for M/s.Rank Associates

For Defendant : No Appearance

ORDER

The Trust and its Trustees have filed this suit under Section 92 of the Code of Civil Procedure seeking permission of this Court to permit the plaintiffs 2 to 5 as Trustees of the plaintiff Trust to gift the suit schedule property to M/s.ISKCON (International Society for Krishna

Consciousness), the defendant by executing and registering necessary gift deeds. The brief facts of the case are as follows:

2. The suit schedule property which is part of a larger extent of land bearing door No.10/87, Maddox Road, Vepery, Chennai 600 007, belonged to the great grand father of plaintiffs 2 to 5, one Ekambara Mudaliar. The suit property consisted of small country tiled construction which was used for conducting Panduranga Bhajans during the lifetime of Ekambara Mudaliar. The larger extent of property was dedicated to the 1st plaintiff Trust and the family members of Ekambara Mudaliar were the trustees. The plaintiffs have stated that they have not been able to lay their hands on the trust deed.

3. The factum of the creation of the Trust and the dedication of this property is mentioned in a subsequent document which was a deed of Family Partition-cum-Settlement dated 06.08.1992 registered as Doc.No. 1370 / 1923 in and by which the family of the said Ekambara Mudaliar had partitioned various properties as per the schedule detailed therein. The

suit property was allocated for the charitable activities including the Panduranga Bhajan. The said Ekambara Mudaliar had 7 sons including Appadurai Mudaliar and Varadarajulu Mudaliar. The extract of the Town Survey Land Register had recorded the names of Appadurai Mudaliar and Varadarajulu Mudaliar as trustees to Panduranga Bhajanai Kovil Trust and the owner of the land. This clearly shows that the property belonged to the Trust. The plaintiffs 2 to 5 are the legal heirs of the said Varadarajulu Mudaliar's son Govindarajan Mudaliar. The plaintiffs are unable to provide the whereabouts of the legal heirs of Appadurai Mudaliar despite their diligent search.

4. The plaintiffs have further stated that they alone have been carrying out the activities provided under the Trust deed, namely, conducting the Panduranga Bhajans. The plaintiffs would state that the property in question had become dilapidated and the Bhajans have also been discontinued for several years now. The plaintiffs would further submit that they are unable to demolish and put up any construction due to paucity of funds.

5.The defendant organization is also engaged in propagating the message of the Lord Krishna and the objectives of both the 1st plaintiff Trust and the defendant were similar in nature. The defendant are ready to take over the worship and Bhajana activities in the premises in keeping with the desire of the trustee, Ekambara Mudaliar in the suit property.

6. The defendant Organization have also expressed its willingness to expend money for putting up constructions in the suit property and use the same for worship and Bhajana activities. It is in these circumstances that the plaintiffs have approached this Court for necessary permission. The 2nd plaintiff, one of the trustees of the 1st plaintiff Trust has got into the witness box and adduced evidence as P.W.1 and has marked documents. The original extract of the resolution of the 1st plaintiff Trust authorizing the witness to give evidence on behalf of the 1st plaintiff Trust is marked as Ex.P.1. The photocopy of the deed of Family Partition-cum-Settlement dated 06.08.1923 was marked as Ex.P.2. The death certificate of the father of the plaintiffs 2 to 5, Govindarajan Mudaliar has been marked as Ex.P.3.

The photocopy of the legal heirship certificate and the photocopy of the extract of the Town Survey Land Register has been marked as Ex.P.4 and Ex.P.5 respectively.

7. The learned counsel appearing for the plaintiffs would contend that the gift is sought to be made to the defendant which is another organization engaged in the very same activities, namely, propagating the glory of the Lord Krishna and therefore the objects of the 1st plaintiff Trust would not in any way would be set at naught by reason of allowing this petition.

8. A perusal of Ex.P.2, which is the deed of Family Partition-cum-Settlement dated 06.08.1923 establishes the fact that the 1st plaintiff Trust was the owner of the larger extent of the suit property and that Bhajans were being conducted in the suit property. The extract of the Town Survey Land Register would also indicate that the suit property was used as a “Bhajanai Kovil”.

9. The defendant organization is a world renowned organization and is also having similar objectives as that of the 1st plaintiff Trust, in that the defendant also engaged in propagating Glory of the Lord Krishna world over. One of the activities of the ISKCON, the defendant is also to conduct Bhajans. The learned counsel for the plaintiffs had represented before this Court that the building has been demolished as it had become highly dilapidated and today the property is a vacant site. The defendant organization is also ready to take the property for the purpose of putting up a construction for conducting Bhajans.

10. In these circumstances it would be in the interest of the Justice to decree the suit as prayed for. The plaintiffs shall file a copy of the Gift Deed executed by them in favour of the defendant Organization into this Court upon the gift deed being so executed within 4 weeks from such execution. The suit is decreed. No costs.

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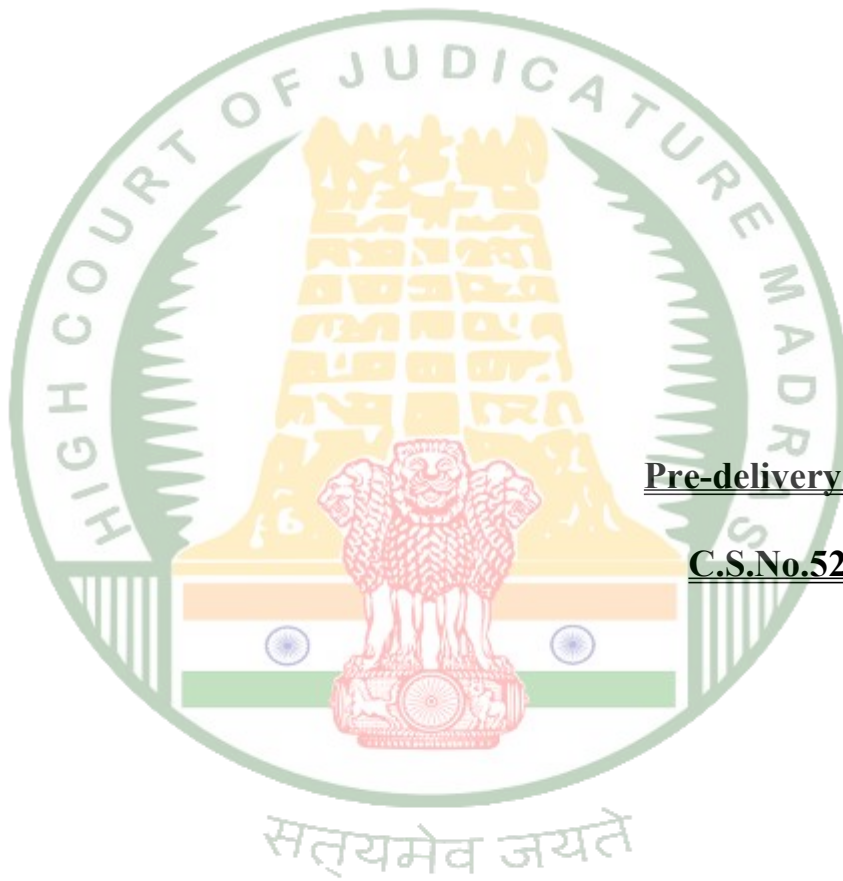
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