

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.04.2021

Coram:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Application No.1246 of 2020
in O.P.No.278 of 1948

G.Dhilip Kumar, S/o Ghajarajan .. Applicant

Vs.

The Official Trustee of Tamil Nadu,
City Civil Court Annex Building,
High Court, Chennai-600 104. .. Respondent

Application filed and Judge's Summons issued under Order XIV Rule 8 of the Original Side Rules of this Court read with Section 151 of the Code of Civil Procedure, 1908, praying to direct the Official Trustee to sell the property, morefully described in the Annexure to the application and as per the order of this Court in Application No.2453 of 1995, dated 25.08.1995.

Schedule of Property

All that piece and parcel of the land and Coconut garden situated at Medavalkam Purusawalkam Madras within the Sub Registration District of Purusawalkam and within the Registration District of Madras North, comprised in the following numbers:

<i>Coconut Garden</i>			<i>Paddy Field Lands</i>		
R.S.No.	Grounds	Sq.Ft.	R.S.No.	Grounds	Sq.Ft.

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<i>Coconut Garden</i>			<i>Paddy Field Lands</i>		
1	2	3	4	5	6
2929	39	0120	2930/4	18	0150
2937	2	0774	2942/1	5	0696
2939	6	2330	2942/2	1	1255
2940	5	0200	2942/3	4	1400
2941	5	1119	2943	3	1359
2947	22	1360	2944	3	0175
2950	13	2030	2945	3	2344
2951	9	0323	2946/1	2	0341
2952/2	18	2031	2936/2	2	1209
	17	0332	2964	3	1820
	1	1406	2966	2	1200
			2969	4	0900
			2936/5	1	0083
			2928	40	2200
			2938 (pt)	7	1236
			2932/4 (pt)	23	0212
	160	0025		127	2180

For applicant : Mr.V.Raghavachari

For respondent: Mr.K.Seetharam for A.G. & O.T.

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ORDER

This application is filed to direct the Official Trustee to sell the property, morefully described in the Annexure to the application and as per the order of this Court in Application No.2453 of 1995, dated 25.08.1995.

2. The applicant is a businessman and he is having a gold jewellery business, construction and other allied businesses. Akash Jewellers and Mahaveer Associates are two businesses that had earned reputation amongst the public. The applicant had desired to develop educational institutions that are available in and around the city. The properties are available under the custody of the respondent that could be usefully utilised for the purposes they were envisaged.

3. It is the further case of the applicant that the Official Trustee is in management of the properties belonging to C.Kandhaswamy Naidu as the sole executor of the Will dated 21.05.1948 and loss of 1-1/2 acres of the Trust. The Official Trustee had leased out the property earlier year and disputes arose between the occupant and the respondent, however, resulted

in compromise on 06.04.1995 in O.P.No.278 of 1948. By virtue of a compromise, the occupant was allowed to retain 1-1/2 acres in Survey No.2932/4 and 2938 of Medavakkam Village and the remaining lands were surrendered to the respondent.

4. It is further stated by the applicant in the affidavit filed in support of the present application that the lands are lying fallow and anti-social elements are eyeing to grab it, including the politicians. The land measures 287 grounds and 2205 Sq.Ft. and earlier, permission was sought for by the Official Trustee to augment the income to the Trust and for investment to achieve the desired objects. This Court, on 25.08.1995, had permitted the sale and directed the invitation through public advertisement, but ultimately, nothing had progressed.

5. The applicant had expressed his inclination to purchase the property in question, which is under the control of the learned Official Trustee. The guideline value for the property is estimated to be Rs.301 crores. The applicant is willing to deposit 25% upfront to establish his bonafides. He is also willing to purchase the property, be it negotiation or by participating in the public auction. Allowing the land(s) to lie fallow, would

only attract the land grabbers and slum grabbers to snatch it. The applicant is offering fair price and no prejudice would be caused to anyone to direct the sale. Hence, the applicant has filed this application for the relief stated supra.

6. Today, when the application is taken up for hearing, the learned counsel for the applicant submitted that earlier, this Court had passed an order permitting the sale of the land mentioned in the connected application in A.No.2453 of 1995. In this regard, the learned counsel for the applicant invited the attention of this Court to the relevant portion of the order dated 25.08.1995 passed by a Division Bench of this Court in A.No.2453 of 1995, etc. Learned counsel for the applicant further submitted that no appeal had been filed as against the said order dated 25.08.1995 and hence, it has become final. Therefore, the learned counsel for the applicant submitted that there is no impediment to sell the property mentioned in this application.

7. This Court also heard the learned counsel appearing for the respondent/Official Trustee and perused the materials available on record.

8. It is useful to extract the relevant portion of the said order dated 25.08.1995 passed in A.No.2453 of 1995:

"2.

(1) The Official Trustee shall advertise in two local newspapers, one in English, namely 'The Hindu' and another in Tamil namely, 'Daily Thanthi', on two days calling for offers from the public to purchase the property;

(2) First of such publications shall be made on or before 4.9.1995 and the second, on or before 11.9.1995;

(3) The publications should contain full details of the property as set out in the schedule to the application as well as the conditions prescribed herein;

(4) The offers must be handed over to the Registrar of this Court in sealed covers on or before 26.09.1995 and the sealed covers will be opened in this Court on 29.9.1995 in the presence of parties;

(5) Even the applicants in Application Nos.2457, 2466, 3139, 3866 and 4057 of 1995 shall make their offers in sealed tenders before the Registrar; and the offers made already by these applicants in one application will not be considered;

(6) Along with the offers, each offeror must

enclose a demand draft drawn on any Nationalised Bank for a sum of Rs.25,00,000/- (Rupees Twenty Five lakhs) in favour of the Official Trustee, Madras, as Earnest Money Deposit, in the sealed covers; and

(7) The person, whose bid is accepted by this Court, shall deposit in court the entire bid amount minus Rs.25,00,000/- referred to above, within one week from the date of acceptance of the bid."

9. Considering the submissions made on either side, this Court allows this application.

10. Three months' time from today is granted to the learned Official Trustee to sell the property described in the annexure to this application, and the learned Official Trustee is directed to sell the property, morefully described in the Annexure to the application, in terms of the order of this Court in Application No.2453 of 1995, dated 25.08.1995 in paragraph 2 therein, as extracted above. The learned Official Trustee is directed to follow the terms and conditions stipulated in the said order and fix the dates accordingly as mentioned in the above extracted order. The Earnest Money

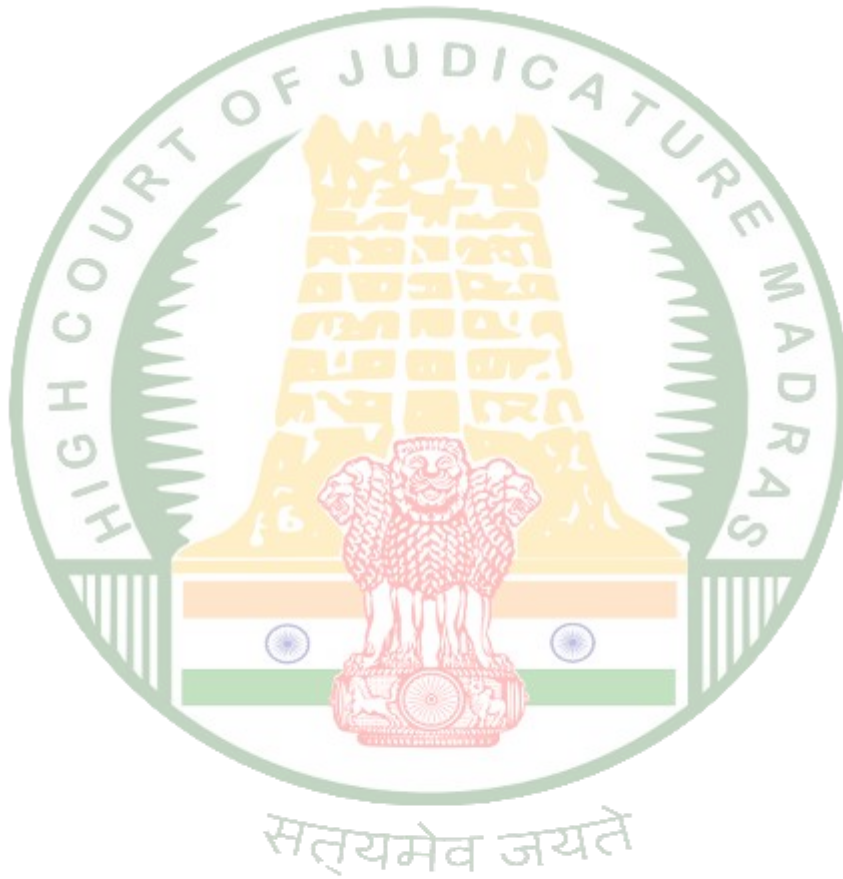
Deposit (EMD) shall be fixed by the learned Official Trustee in respect of the property in question, based on the current market value of the said property. In other respects, the learned Official Trustee is at liberty to take steps to sell the property in question, as mentioned in the above extracted order of this Court, dated 25.08.1995, in respect of newspaper publication, etc., by fixing the date of auction, etc. The offeror(s) shall hand over their offers in sealed covers to the learned Official Trustee, which shall be opened by him in the presence of the offerors/parties. The EMD must be drawn in favour of the Official Trustee, High Court Campus, High Court, Madras, in a sum that shall be fixed by the learned Official Trustee based on the current market value of the property in question, as referred to above and the said EMD shall be deposited in a sealed cover and handed over to the learned Official Trustee. Based on the bid amount in the auction that shall be conducted by the Official Trustee, the property in question shall be sold to the applicant herein, or to the better offeror in the auction.

28.04.2021

Speaking Order: Yes

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To
The A.G. & O.T.,
High Court, Madras.



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R.SUBBIAH, J

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