IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2022

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Original Petition No.261 of 2022

St.Micheal's Educational and Charitable Trust,
Rep. by its Managing Trustee,
1.Shri M.Stalin Arockiaraj,

2.Mrs.A.Fatima Mary, (Trustee)

3.Mrs.J.Bridget Nirmala, (Trustee)

4.Mr.S.Cergius Anto Michael, (Trustee) ... Petitioners

Prayer: The Original Petition filed under Section 34 of the Indian Trust Act, 1882, seeking permission to the trustees of the St.Micheal's Educational and Charitable Trust to effect sale of the Schedule mentioned property for the value to be fixed and on effecting such sale and realization of the sale proceeds, invest the sale proceeds in the bank account of "St.Micheal's Educational and Charitable Trust" office at Plot No.926, Door No.5, 11th Sector, 70th Street, West K.K.Nagar, Madras-600 078 with the Indian Overseas Bank, Madurai-K Pudur Branch, in Account No.089833000001111.

For Petitioners : Mr.B.Balavijayan

ORDER

The Original Petition has been filed under Section 34 of the Indian Trust Act, 1882, by the Trustees on behalf of the St. Micheal's Educational and Charitable Trust, represented by its Managing Trustee, who is shown as the 1st petitioner, seeking permission to effect sale of the schedule mentioned property and to invest the sale proceeds in the bank account of the Trust, which is, the Indian Overseas Bank at Madurai K.Pudur Branch.

2. In the petition, it had been stated that the Trust is a Public Educational and Charitable Trust, formed by the father of the Managing Trustee, V.Michael, Son of Vedamuthu Udaiyar and registered under the Indian Trusts Act, on 17.03.1993 as Document No.262/1993 in the Office of the Sub Register at Kodambakkam.

3. It was formed with a capital of Rs.500/-. The primary object was to promote the interests of the Minority Christian community students in India.

4. An Amendment Deed was also registered as Document No.372/2004, dated 01.04.2004 again before the Sub Registrar Office at Kodambakkam. There were trustees who came to be appointed, consequent to the death of the Founder of the Trustee of the Trust.

5. It had been further stated that the property shown in the schedule to the petition had been purchased in the name of the Trust by the Founder of the Trust under four Sale Deeds, dated 09.12.2005, 12.12.2005 and 26.08.2005.

6. It is stated by the learned counsel for the petitioners that though the property as described in the schedule to the Original Petition has been described in separate schedules they formed one contiguous track of land.

7. It is also stated that the Trust, had been granted Registration under Section 12 (A) (a) of the Income Tax Act, 1961 and also granted Certificate of Examination under Section 80 G of the Income Tax Act, 1961.

8. It is stated that the property is required to be disposed of to meet the over heads, the statutory payments and perform the charities.

9. It is stated that the necessity is bonafide. It is under those circumstances, the petition had been filed.

10. After following due procedure, the parties were directed to tender evidence. The Managing Trustee examined himself as P.W.1. The copy of the Trust Deed and the Amendment Deed were marked as Exs.P1 and P2. The copies of the Sale Deeds were marked as Exs.P3 to P9. The Resolution of the Board of Trustees to sell the property had been marked as Ex.P10. The Amendment Deed consequent to the induction of the new Trustees was marked as Ex.P11. The Valuation Report was marked as Ex.P13. The originals had been produced before the learned Master and compared with the copies actually marked, during the course of evidence.

11. The petitioner also examined M.Valan Elango as P.W.2. He is the authorized signatory of M/s.Scintillating Real Estates LLP, the

purchaser of the lands. He has filed his affidavit and in the affidavit he had stated as follows:

> *"4. I humbly submit that, the petitioner Trust as well as the intended purchaser namely M/s. Scintillating Real Estates LLP, Coimbatore, will abide by the directions of this Hon'ble Court and will comply with the procedures contemplated under Law, for execution of the Sale Deed."*

12. In the proof affidavit of P.W.1, it had also been similarly stated as follows:

> *"24. I humbly submit that, I, the Managing Trustee of the Trust as well as the intended purchaser namely M/s.Scintillating Real Estates LLP, Coimbatore, will abide by the directions of this Hon'ble Court and will comply with the procedures contemplated under law, for execution of the Sale Deed as directed by this Hon'ble Court."*

13. In view of the said statements made, I hold that there is no impediment in granting the relief sought in the Original Petition.

14. Accordingly, the Original Petition stands allowed. However, a caveat is placed that the entire sale consideration should be deposited with the bank account of the petitioner with the Indian Overseas Bank, Madurai, K.Pudur Branch and the Fixed Deposit receipts should be handed over to the Registry.

15. Whenever the petitioner comes up with a proposal to utilize the said amounts after due resolution of the Board of Trustees, necessary application may be filed for payment out.

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Index:Yes/No
Speaking Order : Yes/No
ssi

<u>C.V.KARTHIKEYAN,J.</u>

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