



WEB COPY

1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 11TH DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

A.Nos.608 and 609 of 2022

in

A.Nos.4146 and 4147 of 2021

in

O.P.No.109 of 1942

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

... Applicant in both Applications

**A.Nos.608 and 609 of 2022 and
A.Nos.4146 and 4147 of 2021:-**

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

...Applicant

-VS-

Dawoodi Bohra Jamaat Trust,
Rep. By its President,
New No.126, Old No.55,
Moore Street,
Chennai 600 001.

... Respondent

A.No.608 of 2022 :-

Application praying that this Hon'ble Court be pleased to permit

<https://hcservices.ecourts.gov.in/hcservices/>

the applicant to re-auction the property along with the remaining properties



which are yet to be auctioned.

WEB COPY

A.No.609 of 2022:-

Application praying that this Hon'ble Court be pleased to recall the order of confirmation in respect of Sl.No.1 in A.No.4146 & 4147 of 2021, dated 03.12.2021.

These Applications coming on this day before this court for hearing in the presence of Mr.S.Raju, Administrative General and Official Trustee, the applicant in both applications appearing in person, and Mr.P.Siddharthan, Advocate for the Respondent in both applications and upon reading the judge's summons and the report of the Official Trustee of Tamil Nadu filed in both applications, and the learned counsel for the respondent having submitted that the applicant/AG & OT may be directed to return the amount deposited by them, for which, the learned AG & OT has no objection, it is ordered as follows:-

That the applicant in A.No.608 of 2022, be and is hereby permitted to re-auction the property morefully setout in the schedule hereunder, alongwith the remaining properties which are yet to be auctioned.

2) That the order of confirmation in respect of Sl.No.1 in

A.No.4146 and 4147 of 2021, dated 03.12.2021, be and is hereby recalled.



3) That the learned Administrative General and Official Trustee, be and is hereby directed to return the EMD amount deposited by the respondent herein.

Schedule of Property

Premises of a property bearing Door No.51 & 52, Moore Street, Chennai 600 001, having extent of 2309 Sq.Ft, bounded on the

North by : Bathool Center Tower

South by : Mosque

East by : Doss Tower

West by : 51, 52 Moore Street

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 11TH DAY OF MARCH 2022.

Sd/-
ASSISTANT REGISTRAR (O.S. II)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



WEB COPY

MU

22.03.2022

4

A.Nos.608 and 609 of 2022
in
A.Nos.4146 and 4147 of 2021
in
O.P.No.109 of 1942

ORDER

DATED : 11.03.2022

THE HON'BLE MR. JUSTICE
M.DURAI SWAMY

FOR APPROVAL: 28.03.2022

APPROVED ON: 29.03.2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 11TH DAY OF MARCH 2022

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

A.Nos.608 and 609 of 2022

in

A.Nos.4146 and 4147 of 2021

in

O.P.No.109 of 1942

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

... Applicant in both Applications

**A.Nos.608 and 609 of 2022 and
A.Nos.4146 and 4147 of 2021:-**

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

...Applicant

-VS-

Dawoodi Bohra Jamaat Trust,
Rep. By its President,
New No.126, Old No.55,
Moore Street,
Chennai 600 001.

... Respondent

A.No.608 of 2022 :-

Application praying that this Hon'ble Court be pleased to permit



the applicant to re-auction the property along with the remaining properties which are yet to be auctioned.

A.No.609 of 2022:-

Application praying that this Hon'ble Court be pleased to permit the applicant to re-auction the property along with the remaining properties which are yet to be auctioned.

These Applications coming on this day before this court for hearing, **the Court made the following order:-**

The learned Administrator General and Official Trustee of Tamil Nadu (“AG & OT” for brevity) has filed the above applications, A.No.608 of 2022 to permit him to re-auction the properties along with the remaining properties which are yet to be auctioned and A.No.609 of 2022 to recall the order of confirmation in respect of Sl. No: 1 in A. No. 4146 & 4147 of 2021, dated 03.12.2021. The learned AG & OT has filed the report which reads as follows :

“1.The applicant most humbly submits that this application is filed to recall the order of the confirmation of auction held by the applicant's office on 01.10.2021.

2.The Official Trustee of Tamil Nadu submits that he is administering and managing trusts as per the order of



WEB COPY

Hon'ble High Court and also as per the Will of the Testator. The property belonging to the Trust Estates are let out to third parties on rent/lease after obtaining necessary permission from this Hon'ble Court. The regular practice for letting out the properties to third parties is through public auction.

3.The Official Trustee further submits that this office expresses its intention to let out the properties for rent through public auction calling upon interested parties to participate in the public auction on a fixed date. The property comprising Door No. 51 & 52, Moore Street, Chennai-600 001, belongs to the trust estate of V. Thiruvengadathan Chetty having on extent of 2309 Sq. Ft. was proposed to be let out since the said property is vacant.

4.The Official Trustee further submits that this office proposes to let out the same on monthly rental basis apart from this several other properties were also published for letting out to third parties on monthly rent. Totally 21 properties were proposed to be auctioned. Accordingly the applicant filed an application in A. Nos. 1252 & 1253 of 2020 before this Hon'ble Court seeking permission to let out the said 21 properties through public auction and the same was allowed by this Hon'ble Court on 30.06.2020. Due to the COVID - 19 Pandemic the auction could not be conducted immediately.



WEB COPY

5.The Official Trustee further submits that the applicant advertised about the proposed auction by the way of paper publication vide Daily Thanthi news paper on 12.09.2021. As per the paper publication the auction was to be conducted on the scheduled days for 21 properties from 01.10.2021 to 07.10.2021. Paper publication marked as Exhibit D1. Though 21 properties were published for public auction, the bidders participated only for 7 properties in Sl. Nos. 1, 4, 7, 8, 13, 18 and 19.

6.The Official Trustee further submits that the property mentioned in this petition i.e. D.No.51 & 52, Moore Street, Chennai – 600 001, arraigned as Sl.No.1. The said property was auctioned on 01.10.2021. There were two bidders namely D. Koteswaran, S/o. Dharmalingam and other one was the President of Dawoodi Bohra Jamaat Trust. Since, the Dawoodi Bohra Jamaat Trust was the highest bidder the bid was concluded in its name. Subsequently in respect of the auctioned properties the applicant had filed A. No. 4146 & 4147 of 2021 for confirmation and accordingly the auction was confirmed by this Hon'ble Court on 03.12.2021. The confirmation order marked as Exhibit D2.

7.The Official Trustee further submits that the trust estate V.Thiruvengadathan Chetty is a public charitable trust. Hence, the property cannot be let out to promote any particular religion or any association or caste or a particular community.



8. *The Official Trustee further submits that the highest bidder namely the Dawoodi Bohra Jamaat Trust has not stated the purpose for which the trust property is required in their application as stated earlier. After the confirmation of the auction the lease agreement was about to be entered wherein the object of the Dawoodi Bohra Jamaat Trust came to be known by the applicant on perusing the trust deed submitted by the highest bidder namely the Dawoodi Bohra Jamaat Trust. The application is the highest bidder along with the trust deed is marked as Exhibit D3.*

9. *The Official Trustee further submits that the said trust deed the objective of the trust is mentioned as follows.*

“4.1. To advance, promote, propagate and preach the religion of Islam amongst the Dawoodi Bohras in conformity with al-Quran and Shariat Mohammediyah according to the doctrines and tenets of Dawat-e-Hadiyah.

4.2. To celebrate arrange participate and take leading part and active interest in all religious, solemn and ceremonial function gatherings, majalis of Dawat-e-Hadiyah such as the birth and death anniversaries of Doat Kiram and Hudud Izam recognized by al-Dai al-Matlaq.

4.3. To support Madrasahs and advance religious education and learning.

4.4. To promote, propagate, foster and implement the concept of Qardan Hasana among the Dawoodi Bohras in accordance with the tenets and principles of Dawat-e-Hadiyah.

4.5. To host and assist in arranging Niyaz (religious meals) on solemn and other



occasions.

4.6.To promote, foster and support the building construction, restoration, development, expansion, renovation and maintenance of Masjies, Mausoleums, Madrasahs, Jamaatkhanas, Darul Emarat (official residence of the Amil). Musafirkhanas (rest houses for pilgrims and travelers) and Qabrastans (burial grounds) and such other religious properties.

4.7.To carry out any other pious or religious activities as per the directions of the Sole Trustee.”

A perusal of the above stated objects of the trust shows, that the purpose of trust is to advance, promote, propagate and preach the religion of Islam amongst the Dawoodi Bohras in conformity with al-Quran and Shariat Mohammediyah. To celebrate, arrange, participate and take leading part and active interest in all religious, solemn and ceremonial functions. To support Madrasahs and advance religious, education and learning. To promote, propagate, foster and implement the concept of Qardan Hasana among the Dawoodi Bohras. Hence, the object of the trust is only to promote a particular religion by using the property belonging to a public charitable trust which cannot be done as per the law and as per the wish of the testator.

10.The Official Trustee further submits that this office considering the objective the trust had caused a letter dated 12.01.2022, showing its intention that lease deed cannot be executed, in view of the objectives mention in their trust deed along with the demand draft of rental advance.



WEB COPY

The letter is marked as Exhibit D4.

11.The Official Trustee further submits that the president of Dawoodi Bohra Jamaat Trust had sent a reply stating that apart from the objective stated in the trust deed, their trust is involved in various social activities. However, apart from the bald statement no amended Trust Deed is filed. The reply is marked as Exhibit D5.

Under this circumstances, since the property comprised in Door No. 51 & 52, Moore Street, Chennai - 600 001 belongs to the trust estate of V.Thiruvengadathan Chetty a public charitable trust cannot be let out to the highest bidder namely Dawoodi Bohra Jamaat Trust who's main objective is to promote a particular religion. Hence, this application is filed seeking the following reliefs.

(i)To recall the order of confirmation in respect of Sl. No: 1 in A. No. 4146 & 4147 of 2021, dated 03.12.2021.

(ii)To permit the applicant to re-auction the property along with the remaining properties which are yet to be auctioned.”

2.Mr.P.Siddharthan, learned counsel appearing for the respondent, has no objection for allowing the applications. The learned counsel further submitted that the applicant/AG&OT may be directed to return the amount deposited by them, for which, the learned AG & OT has no objection.



3. In view of the submissions made by the learned counsel on either side, the applications stand allowed. The learned AG & OT is directed to return the EMD amount deposited by the respondent.

Sd/-M.D.J.
11.02.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.