A.No.2211 of 2022
in
OP No.735 of 2021

KRISHNAN RAMASAMY,J

This application has been filed to permit the 1st applicant/Trust to withdraw a sum of Rs.4,20,00,000/- together with accrued interest, which is now lying in the credit of Registrar General, High Court of Madras.

2.The applicants approached this Court to sell the property by virtue of OP.No.735 of 2021. In the said OP, this Court on 26.04.2022 has passed the following order:

> "This original petition has been filed by petitioners seeking permission to sell the 'B' schedule property belonging to KAN-CHI CHARITY TRUST and remit the sale proceeds in the account of the 1 st petitioner/ Trust.
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> 2.The learned counsel for bidder would submit that as, per the direction of this Court dated 18.02.2022 in the present petition, the intended purchasers G.Venkataraman and

Subbulakshmi Venkatraman have deposited the entire sale proceeds amount of Rs.4,20,00,000/- to the credit of O.P.No.735 of 2021 before the Registry of this Court.

3.In view of the above, the authorised persons of the 1 st petitioner/ Trust shall execute a Sale Deed in respect of 'B' schedule property in favour of the proposed purchasers and complete all formalities on or before 24.06.2022. Accordingly, this petition is allowed.

4.Registry is directed to deposit the total sale proceeds amount of Rs.4,20,00,000/- in any one of the Nationalized Banks in interest bearing Fixed Deposit Scheme to the credit of 1 st petitioner/Trust, after deducting TDS, if any. On such deposit, the 1 st petitioner/Trust is permitted to withdraw the interest accrued in the bank deposit as and when required and the same shall be used for fulfilling the objects of the Trust. It is made clear that without obtaining permission of this Court, any principal amount should not be withdrawn. After registration of Sale Deed, both the parties are directed to report before this Court and also produce a copy of the sale deed before this Court.

List the matter on 24.06.2022 "for reporting compliance".

3.While passing the above order, this Court directed the Registry to deposit the total sale proceeds amount of Rs.4,20,00,000/- in any one of the Nationalized Banks in interest bearing Fixed Deposit Scheme to the credit of first applicant / Trust and on such deposit being made, the first applicant/Trust is permitted to withdraw the interest accrued in the Bank deposit as and when required and the same shall be used for fulfilling the objects of the Trust.

4. However, the learned counsel for the applicants submitted that at present the the first applicant/Trust is facing great financial situation and it has to meet out the expenses incurred towards construction of a building and to make payment of salaries to the teaching and non-teaching staff and other incidental expenses. He pointed out that the interest alone is not sufficient to meet out the said expenses and also to run two Schools of the first applicant/ Trust. In such circumstances, the the first applicant/Trust has come forward with the present application, praying to permit the 1st applicant/trust to withdraw Rs.4,20,00,000/-

along with accrued interest thereon lying to the credit of Registrar General of High Court and the learned counsel for the applicants would submit that the funds are going to be utilized only towards the object of the Trust, which are mentioned in the affidavit filed in support of the application by the 1st applicant/Trust and the same are extracted hereunder:

> "11. I submit that on 22.03.2020, all of sudden, the school was closed due to pandemic, that was the third term closing of the academic year many of the students have not paid school fees. Since then it was under lock down for 2 years, the Government insisted all the schools should collect only 85% of the fees and also not to force the student to pay the fee. Therefore, we were unable to collect fee.
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> 12.I submit that many parents told that due to lockdown they have not been paid salary and some of them lost their job. It is pertinent to note that the school run by the petitioner is not an aided school and there was no contribution from the Government for running school. We have not

received support from anywhere and so we were seriously hit by financial crisis.

13.I state that the management decided not to force the parents to pay the fees and accept if they wish to pay. Hence, the petitioner was providing free schooling for two academic years. In this scenario, we had started conducting online classes and teachers were paid almost 1 ½ times of the salary for their classes. Due to the online classes, we were forced to provide Internet and smart phone facilities at our cost to the teachers for providing online classes for our students.

14.I submit that school also had to make necessary facilities to upload lessons in You Tube at their cost which also costed the school. I further submit that corpus fund kept as a one month salary and fixed deposit cannot be released for that we have to get necessary permission from Education Department. The Education Department was not working due to lockdown. Despite the lockdown, we have paid EB Charge, Metro water, property tax regularly without default with our limited resources. Even no deduction was given by the Government.

15.I state that due to the above said financial circumstances, the petitioner approached the Bank, but the Bank refused to provide loan citing fees reduction and lockdown. We were left with no other choice except to approach the private financiers to meet out all expenses at higher rate of interest. In fact, there was a torrential rain during the pandemic which destroyed our temporary structures and toilet.

16.I state that the management has decided to build a new toilet, stage and the class room in third floor as the class room on the ground floor is flooded very often whenever rains. We have borrowed from private financiers to mitigate the crisis.

17.I state that all acts to run the school and to help the down trodden requires funding, once the school reopens. We have to return money borrowed from the private financiers as the interest get accumulated. The construction of the superstructure building and the toilet also require funds, so the management decided to sell the unused land of the trust and use the fund to meet out the expenses. At the outset, we have also obtained building plan for construction which is filed herewith. I further submit that Rs.1,61,76,411/-(One Crore Sixty One lakhs Seventy Six thousand Four Hundred and Eleven) is the expense incurred during the period for 2021-2022. Statement of account is filed herewith and may be read as part and parcel of this affidavit. However, a portion of this expenditure was outsourced. Hence, these amounts which were borrowed had to be returned with interest. It is pertinent to mention that the old loans have been repaid and its only the new loans of Rs.1.70 crores which have to be repaid. This apart the building has to be constructed as stated above.

18.I state that the Trust is facing great financial situation wherein, the above said construction had to be done for the safety of the school children besides paying the salary to staff and other permanent overheads besides incidental expenses. It is also very pertinent to point out that the Trust has to repay that money borrowed for interest from private financiers with interest. Unless and until this Hon'ble Court permit us to withdraw the above said deposited amount of Rs.4.20/- crores with proportionate interest, we would be put to much financial constraint and cannot balance the financial situation which might also lead to borrow from other sources once the school starts functioning from June 2022".

4.In fact, the main O.P. has been moved for the sale of the property since the said property was not fetching sufficient income to run the Schools and maintain the activities of the Trust. Hence, it would be appropriate to sell the property of the Trust and the sale proceeds could be utilized to achieve the object of the first applicant/Trust and also to run the Schools and to maintain the activities of the Trust. Subsequently, the property was sold out and the sale proceeds were deposited. However, while passing the order, this Court only granted permission to withdraw the interest amount alone to meet the expenses.

5.As rightly submitted by the learned counsel for the applicants, the interest amount alone would not meet out the expenses since the 1st applicant/Trust was providing free education and during Covid-19 pandemic, all the expenses, such as Electricity, Metro water, Property tax and salaries to all the staff, etc. were paid and also a sum of Rs.1,61,76,411/- was spent towards rennovation and construction of a new building. In such circumstances, it would be appropriate to permit the 1st applicant to withdraw the amount along with the accrued interest lying with the Registrar General of this Court to meet out the expenses in order to achieve the object of the Trust.

6.In the the light of the above and since this Court is satisfied with the reasons assigned by the 1st applicant/Trust for withdrawn of the amount, the 1st applicant/trust is permitted to withdraw a sum of Rs.4,20,00,000/- along with interest accrued there of lying with the Registrar General, High Court of Madras, Chennai. It is made clear that the entire amount shall be utilized only for the purpose of achieving the object of the first applicant/Trust and for nothing else. In the event of any misuse of the amount or utilized for the purpose other than the objects of the Trust, all the concerned, will be held responsible. The first applicant/Trust is directed to submit the Statements detailing each and every aspect for which, the amount was spent, from time to time before this Court.

7. With the above, this Application is allowed.

17.06.2022

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Note to Registry:

Issue order copy on 20.06.2022.

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