O.P.No. 447 of 2022

C.V.KARTHIKEYAN, J.

This Petition has been filed taking advantage of Section 7 of the Charitable and Religious Trusts Act, 1920 seeking to sell the property of the Trust / Palaniappa Charitable Trust, which has been described in the schedule to the Petition and is situated at No.49, Avadhanam Papier Road, Choolai, Chennai – 600 112 measuring about 1 ground and 592 sq.ft. The Trust, namely, M/s. Palaniappa Charitable Trust was founded by the father of the first petitioner/ father-in-law of the second petitioner, Palaniappa Chettiyar on 05.07.1981. The trust deed was registered as Document No. 58 of 1981 in the office of the Sub Registrar, Pudukkottai. The object of the Trust was to provide relief to the poor people and to provide donation to temples and for marriages and also to some extent for educational and medical reliefs and for construction of hospitals and schools.

2. The said property was purchased by M.Palaniappa Chettiyar during his life time by a sale deed dated 06.05.1985 registered as Document No.802 of 1985 in the Sub Registrar Office, Purasaiwalkam. The Managing Trustee M.Palaniappa

Chettiyar died on 30.11.2003. The petitioners herein are the surviving trustees. They had resolved in a Board of Meeting on 23.06.2022 to sell the suit schedule property as the income derivatives was not sufficient and to deposit the sale proceeds in any scheduled bank and utilise the same for the purpose of the Trust which would also enhance the income of the Trust.

3. It is also stated that the first petitioner is of advanced age and the second petitioner is a house wifes and therefore, selling of the property is an ideal operation.

4. After following due procedure, the parties were directed to tender evidence. The first petitioner P.L.Muthukaruppan, son of the founder trustee M.Palaniappa Chettiyar was examined as PW-1. He marked the copy of the sale deed of the property as Ex.P-1 and the copy of the patta as Ex.P-2 and to establish possession marked the property tax receipts and water tax receipts as Exs.P-3 and P-4. The death certificate of Palaniappa Chettiyar was marked as Ex.P-7. The board resolution dated 23.06.2022 was marked as Ex.P-8. After the board resolution, the valuation report was also obtained which was dated 16.07.2022 and that was marked as Ex.P-9.

5. The petitioners had invited offers for purchase of the property and three offers had been received. The highest offer was from Mahaveer Kothari, who was examined as PW-2. He is also incidentally, a tenant in the premises. He had offered a sum of Rs.3.72 crores but after negotiations had agreed to purchase the property for a total consideration of Rs.3.78 crores. It is stated by the learned counsel that an advance of Rs.10/- lakhs had been received and the same had been deposited to the credit of the trust account.

6. The agreement of sale with Mahaveer Kothari / PW-2 was marked by PW-1 as Ex.P-11 and the minutes of the meeting dated 23.06.2022 was marked as Ex.P-12. It must also be mentioned that there were two were offers made but the highest offer was made only by PW-2 / Mahaveer Kothari. The offers were marked as Ex.P-10. After that, the petitioners also examined the prospective purchaser S.Mahaveer Kothari as PW-2. He filed his proof affidavit and he stated that he intends to purchase the property for Rs.3.78/- crores and that he had also paid a sum of Rs.10/- lakhs as advance. He specifically undertook to abide by the agreement of sale and with any condition as may be imposed by this Court.

7. The petitioners also examined P.Sugumar, Government Approved Valuer, as PW-3 and he has also filed his proof affidavit and had given a valuation report dated 16.07.2022, which had been marked as Ex. P-9 through PW-1.

8. When the matter came up before this Court on an earlier date, the learned counsel stated that since only copy of the Trust Deed available, the same could not be marked and thereafter, permission was granted to produce the original and mark the copy after the original was compared to the copy. To mark the copy of the Trust Deed, the petitioners examined PR. Muthusaravanan as PW-4. He was authorised to give evidence on behalf of the Trust. The said resolution was marked as Ex.P-14 and the copy of the Trust Deed was marked as Ex.P-15.

9. In view of the evidence presented, permission is granted to sell the property. Out of the total sale consideration, which would be received after deducting the advance would be Rs.3.68/- Crores, a sum of Rs.3.50/- crores may be invested in fixed deposit in any scheduled bank and the said fixed deposit receipt may be handed over to the Registry of the Original Side of the Madras High Court. The petitioner is permitted to withdraw interest every quarterly to perform the objects of the Trust. The balance sum of Rs.18/- lakhs may be deposited to the credit of the trust account and with the advance of Rs.10/- lakhs, the said amount can be utilised for the purpose of the trust but after passing necessary resolutions in manner known to law and in accordance with the provisions of the Trust Deed.

10. The fixed deposit receipt may be retained by the Registry of the Madras High Court for a period of three years and thereafter, necessary application can be made by the petitioners regarding its utilisation.

07.11.2022

Index :Yes/No
Internet :Yes/No
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