IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.12.2022**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.596 of 2022

Sow.Subhadra Bai Saddharma Niketan Trust,
A Private Trust,
Represented by the Managing Trustee,
Shri. Sanjay Das,
Having office at
Old No.49, New No.87,
General Patters Road,
Chennai-600 002. ... Petitioner

PRAYER: Original Petition filed under Section 34 of the Indian Trusts Act, 1882, prays to permit the petitioner to sell the property of the petitioner Trust, morefully set out in Schedule "B" hereunder, on such terms and conditions.

For Petitioner : Mr.Sharath Chandran for
M/s.Govind Chandrasekhar

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O R D E R

The Managing Trustee of a private trust has petitioned this Court for permission to bring the immovable assets described in Schedule – B to the petition for sale.

2. The petitioner states that the trust was created by Lodd Govind Krishna Das under a trust deed dated 24.02.1943, which was registered as document No.1321 of 1943 in the office of the Sub Registrar, Triplicane. The objects of the trust are, *inter alia*, to construct a hall for the conduct of marriages; arrange for lectures on life values for women; to promote women's education; to impart training on religious performances; to undertake specific religious ceremonies, etc. The trust is said to prescribe hereditary succession under clause 19 thereof. The petitioner has asserted that the trust is currently managed by two trustees, namely, Sri V. Govinda Krishna Das and his son Sri. Sanjay Das, Managing Trustee.

3. The petitioner states that both the Schedule A and Schedule B properties have been encroached upon and that some of the encroachers were successfully evicted therefrom. It is further stated that the trust has no independent income and is, therefore, unable to fulfill the objects of the trust. In these circumstances, after passing a resolution at the meeting of the Trust Board on 22.04.2022, the present petition is filed.

4. In order to establish entitlement to the relief claimed, the petitioner adduced evidence. Mr.Sanjay Das was examined as PW1. In course of the examination-in-chief of PW1, the six documents set out at the foot of this order were marked as Exs.P1 to P6. The trust deed is on record as Ex.P1. The supplementary trust deed dated 30.10.2019 is also on record (Ex.P2). The sale agreement dated 07.05.2022 between the trust, represented by its trustees, and Mr.U.Deepak Kumar is on record as Ex.P6. This document discloses that Mr.U.Deepak Kumar agreed to purchase the Schedule B property for a sum of Rs.8,77,56,000/-. The document further discloses that an advance of Rs.51 lacs was received and that the balance of Rs.8,26,56,000/- would be paid on or before the date of execution of the

sale deed. Clause 6 thereof discloses that the purchaser agreed to pay balance sale consideration and have the sale deed executed within three months from the date of obtaining permission from this Court.

5. Mr.U.Deepak Kumar was examined as PW2. In his proof affidavit, he affirmed that he is agreeable to purchase the property in accordance with the terms set out in the agreement of sale. He further stated that he will deposit the sale consideration in the bank account of the trust in accordance with the directions issued by this Court.

6. The petitioner has also placed on record the valuation report of N.Venkatasubba Rao, Consultant Chartered Engineer, dated 14.11.2022. In the valuation report, the Chartered Engineer has taken into account the fact that the proposed purchaser has agreed to buy the property on 'as is where is basis'. Based on the assessment of the value of the property, it is stated in the valuation report that the property should be sold for not less than Rs.9.06 crore, notwithstanding the encumbrances.

7. The petitioner has also placed on record the patta and property tax receipts relating to the property. The petitioner asserts that Mr.Govind Krishna Das, Trustee, is the grand son of the author of the trust, and that his son is the Managing Trustee. Upon considering the assertions in the petition and the evidence adduced by the petitioner, including regarding the lack of income to fulfill the objects of the trust, the petitioner is entitled to permission to sell the property on the terms and conditions specified below:

(i) the petitioner is permitted to sell the property described in Schedule B to the petition to Mr.U.Deepak Kumar for a sum not less than Rs.9.06 crore.

(ii) After giving credit to the advance of Rs.51 lacs, the balance sale consideration shall be remitted by the purchaser into the accounts of the trust within a maximum period of three months from the date of receipt of a copy of this order.

(iii) From and out of the sale proceeds, the trust is permitted to utilize a maximum of 30% of the sale proceeds for purposes of constructing a building to house the Trust and facilitate the undertaking of the activities of the trust.

(iv) The remainder of the sale proceeds shall be placed in interest bearing fixed deposit accounts in a scheduled bank. Such fixed deposits shall be on auto renewable basis.

(v) The trust is permitted to draw on 50% of the interest accruals from such fixed deposits for the exclusive purpose of fulfilling the objects of the trust.

(vi) The trust shall file an affidavit of compliance after undertaking the above exercise.

(vii) The trust shall submit accounts on annual basis.

20.12.2022

Index : Yes / No

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Petitioner's witness:

P.W.1 – Mr.Sanjay Das

P.W.2 – Mr.U. Deepak Kumar

Documents exhibited by the petitioner:

Exhibit No.	***Description***
Ex.P1	The photocopies of the printed copy and certified copy of the Trust Deed of Sow. Subhadra Bai Saddharma Niketan Trust dated 24.02.1943 (Witness states that the original Trust Deed is unavailable on the records of the Trust. Typed copy and

Exhibit No.	*Description*
	certified copy are produced to compare with the photocopy. Counsel insisted to mark the photocopy by comparing with printed copy and certified copy. This document is marked subject to its admissibility, proof and relevancy.
Ex.P2	The photocopy of the Supplementary Trust Deed dated 30.10.2019 (Compared with the original)
Ex.P3	The photocopy of the Patta of the petition property (Compared with the original)
Ex.P4	The (series 3 Nos.) are the computer generated property tax receipts.
Ex.P5	The photocopy of the minutes of the meeting of the trust board held on 22.04.2022. (Compared with the original).
Ex.P6	The photocopy of the Sale Agreement dated 07.05.2022 (Compared with the original)

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SENTHILKUMAR RAMAMOORTHY,J

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