A.No.5402 of 2022
in O.P.No.297 of 2011

SENTHILKUMAR RAMAMOORTHY, J.

By order dated 15.06.2011, O.P.No.297 of 2011 was allowed by granting the probate to the petitioner / executor in respect of the last Will and testament of S.Krishnaram Davey.

2. This application is presented by the executor seeking permission to sell the asset described in the schedule to the Judge's summons.

3. Clause 7 of the Will directs the trustees to sell the property described in Schedule-B to the Will after obtaining necessary permission from the Court. Clause 7 is set out below:

> *"7. Further, I direct the Trustees to sell the property described in Schedule "B" after obtaining necessary permission from the Court.*

Out of the sale proceeds, the amounts to the various beneficiaries mentioned in para 5 above shall be disbursed to them. The balance shall be included in the Trust Funds."

4. The property described in Schedule-B of the Will is the property described in the schedule to the Judge's summons herein. As is evident from clause 7, the sale proceeds are required to be paid to the beneficiaries mentioned in clause 5 of the Will. The balance is required to be remitted into the trust funds.

5. In order to establish the right to relief, the applicant examined Mr.H.Narayan Bhatt as P.W.1. P.W.1 is the Managing Trustee of Jasodha Bai Nanabhoy Davey Charitable Trust, which was created by the testator. The authorization letter, original resolution of the trust and the original Memorandum of Understanding dated 31.08.2022 between the Trust, represented by its Trustees, and AVR Swarnamahal Jewellery Limited are exhibited as Exs.R1 to R3.

6. In addition, the applicant has placed before the Court the valuation report issued by S.Vijayalakshmi, Chartered Engineer. As per the valuation report, the fair market value of the property has been fixed at Rs.7,90,000/-. The proposed sale is at the price of Rs.8 Crore.

7. Clause 5 of the Will indicates amounts payable to 12 beneficiaries. The aggregate amount payable to these 12 beneficiaries is a sum of about Rs.1,42,00,000/-. The testator has categorically expressed the intention to sell the property through the trustees by directing them to bring the property for sale. In these circumstances, this application is liable to be allowed subject to the following terms:

(i) the property shall not be sold for a sum less than Rs.8 Crore.

(ii) from and out of the sale proceeds, the sums specified in clause 5 of the Will shall be paid to the respective beneficiaries. The aggregate sum payable in such regard is about Rs.1,42,00,000/-.

(iii) the remainder shall be remitted into the trust accounts and form part of the trust fund and shall be used exclusively for the objects of the trust created under the Will.

(iv) an affidavit of compliance shall be filed after the sale is concluded.

(v) a statement of accounts shall be filed into Court annually.

20.12.2022

rna

SENTHILKUMAR RAMAMOORTHY, J.

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