O.A. No.678 of 2022 in C.S. No.187 of 1966
A. Nos.4772 and 4773 of 2022 in C.S. No.187 of 1966
A.No.93 of 2023 in C.S. No.187 of 1966
O.A. No.435 of 2023 in A.No.93 of 2023
A. No.2653 of 2023 in A. No.93 of 2023

S. VAIDYANATHAN, J.

Heard the learned counsel for the respective parties.

2 For better appreciation of the issue, the facts have to be discussed in detail and accordingly, this Court proceeds to discuss the facts threadbare.

2.1 The property in question is Door No.7/21, Managappan Street, Sowcarpet, Chennai – 1. It belongs to the Trust Estate of Srimathi Thiruvallam Thayammal Endowment Trust.

2.2 While so, one Iruthayanathan filed A.No.4148 of 2021 seeking to appoint him as the sole Trustee of Srimathi Thiruvallam Thayammal Endowment Trust, after the demise of his father, Gopalakrishna Moorthy.

2.3 However, during the pendency of A.No.4148 of 2021, on Iruthayanathan expressing his inability to administer Srimathi Thiruvallam Thayammal Endowment Trust, A.G. & O.T. was *suo motu* impleaded by this Court and on 10.02.2022, the A.G. & O.T. was directed to file a feasibility report *qua* taking over of Srimathi Thiruvallam Thayammal Endowment Trust.

On the A.G. & O.T. submitting the feasibility report, this Court directed A.G. & O.T. to take control of Srimathi Thiruvallam Thayammal Endowment Trust and this is how, Srimathi Thiruvallam Thayammal Endowment Trust came under the control of the A.G. & O.T.

2.4 While so, the A.G. & O.T., based on the report of an Engineer *qua* fixation of rent, addressed all the tenants occupying the properties of Srimathi Thiruvallam Thayammal Endowment Trust in Sowcarpet, fixing rent and directed the tenants to execute rental agreement with the office of the A.G. & O.T.

2.5 When things stood thus, the applicant, *viz.*, M. Sudarsanam, claimed that he had executed a lease deed with the previous Trustee, *viz.*, Gopalakrishna Moorthy, the father of Iruthayanathan, on 19.03.2020 in respect of the property in question measuring an extent of 1,200 sq. ft. for 99 years.

2.6 However, as per paragraph 14(b) of the scheme of Srimathi Thiruvallam Thayammal Endowment Trust, framed by this Court in C.S. No.187 of 1966 on 08.01.1969, no lease can be executed beyond a period of three years without the prior sanction of this Court.

2.7 Thus, according to the A.G. & O.T., in the light of the sche dated 08.01.1969 framed by this Court, the lease executed by Sudarsanam with the former Trustee Gopala Krishnamurthy is not valid in the eye of law and Sudarsanam cannot claim any right over the property in question on the strength of the invalid lease deed.

2.8 Hence, in the above background, the A.G. & O.T., after getting permission from this Court in A.No.943 and 944 of 2023 on 16.02.2023, issued a paper publication on 19.02.2023, conducted public auction on 28.03.2023 in respect of Trust properties and accordingly, the property in question was auctioned to three persons and after getting confirmation from this Court in A.No.2194 of 2023 *vide* order dated 13.04.2023, tenancy rental agreements were also executed with the successful bidders and the property also was handed over to them on 09 and 10.05.2023.

3 Having had a bird's eye view of the facts, let us now have a look at the various applications filed by Sudarsanam before this Court *qua* the property in question.

3.1 A.No.678 of 2022 was filed seeking interim injunction restraining Srimathi Thiruvallam Thayammal Endowment Trust or the A.G. & O.T. from interfering with the peaceful possession and enjoyment of the property in question by the applicant.

3.2 A.No.4772 of 2022 was filed seeking:

- ratification of the lease deed dated 19.03.2020 registered as Document No.286 of 2020 at the Sub Registrar's Office, Sowcarpet, Chennai, in his favour for a period of 99 years;
- interim injunction restraining Srimathi Thiruvallam Thayammal Endowment Trust or the A.G. & O.T. from interfering with the applicant's peaceful possession of the property in question; and
- stay of the notice affixed on the door of the property during the first week of August 2022;

3.3 A.No.4773 of 2022 was filed seeking stay of all further proceedings pursuant to the notice affixed on the door of the property in question by the A.G. & O.T.;

3.4 A.No.93 of 2023 was filed seeking a direction to the A.G. & O.T. to hand over possession of the property in question, as per the terms of the lease deed dated 19.03.2020;

3.5 A.No.435 of 2023 was filed seeking interim injunction restraining the A.G. & O.T. from confirming any bid in respect of the property in question;

3.6 A.No.2653 of 2023 was filed seeking a direction to the A.G. & O.T. to remove the seal of the property in question.

4 During the course of hearing of these applications on 18.08.202 it came to light that Sudarsanam had paid a sum of Rs.65,00,000/- in cash to Gopalakrishna Moorthy, former Trustee of Srimathi Thiruvallam Thayammal Endowment Trust. Hence, wondering as to how such a whopping amount can be given by way of cash, this Court *suo motu* impleaded the Income Tax Department and the Inspector of Police, Flower Bazaar Police Station. However, since, on 11.09.2023, it came to light that the property in question comes within the limits of Elephant Gate Police Station, the Inspector of said police station was directed to file a report without hinging on technicalities, pursuant to which, Mr. G.S. Pushparaj, Inspector of Police, C-2, Elephant Gate Police Station submitted a report.

5 Ms. Leela Elamurugan, attached to the office of Mr. V. Prakash, Senior Counsel, vehemently contended that the applicant paid a sum of Rs.65 lakhs in cash.

6 According to Sudarsanam, before the police, he has stated that the amount was paid periodically and finally, a sum of Rs.10 lakhs was paid. But, even going by Sudarsanam's affidavit accompanying O.A. No.678 of 2022, more so, the tabular column in paragraph 5 thereof, on 19.03.2020, a sum of Rs.65 lakhs was paid in cash.

7 Mr. G.S. Pushparaj, Inspector of Police and Mr. K. Raja, S Inspector of Police, C-2 Elephant Gate Police Station, appeared before this Court and submitted that an enquiry has been conducted and statement of Sudarsanam has been recorded. A copy of the said statement of Sudarsanam was furnished to this Court. From a perusal of the same, it is limpid that contrary to the aforesaid averment in paragraph no.5 of the affidavit, Sudarsanam has stated that the amount of Rs.65 lakhs was paid in instalments from 2015 to 2020. Sudarsanam's this version is supported by one K.V.Narayanan. However, there is no shred or iota of evidence to show that he had paid Rs.65 lakhs in instalments, as stated above. When the administration of Srimathi Thiruvallam Thayammal Endowment Trust came to the hands of the A.G. & O.T., a sum of Rs.3,15,236/- only was available and the same was transferred to the account of the A.G. & O.T. on 03.09.2022, out of which, the office of the A.G. & O.T. has paid Rs.2,32,338/- as pending property tax and water tax arrears on the Trust Estate properties and the records also do not reveal that a sum of Rs.65 lakhs was paid by Sudarsanam to private trustee Gopalakrishna Moorthy. Even assuming for a moment that such a transaction had taken place in the year 2000, the Official Trustee is not aware of the same, as there are no records available with the office of the A.G. & O.T. The Trust Estate vested with the A.G. & O.T. on 08.06.2022.

8 Mrs. V. Pushpa, learned Standing Counsel for the Income Tax Department, submitted that in terms of Section 269-SS of the Income Tax Act,

no transaction above Rs.20,000/- can be made by means of cash and as per agreement, it is clear that cash has been handed over on a particular day, for which, details with regard to returns submitted by the applicant have been called for.

9 On a perusal of the records, more so, the report of the Inspector of Police, C-2, Elephant Gate Police Station, I am of the view that Sudarsanam's claim that he parted with a sum of Rs.65 lakhs to Gopalakrishna Moorthy, Private Trustee, by cash and Rs.10 lakhs by cheque, misses the colour of reality.

10 From the above discussion, this Court comes to the conclusion that the story proffered by the applicant that a sum of Rs.65 lakhs has been paid and the same is in the hands of the A.G. & O.T. is too big a pill to swallow. No amount of Rs.65 lakhs, as per the story of the applicant, reached A.G. & O.T. for A.G. & O.T. to account for it and pay it to the applicant.

11 It is open to the Income Tax Department to take action against the applicant in accordance with law for having allegedly transacted with a sum of Rs.65 lakhs in cash with a private trust and not with A.G. & O.T.

S. VAIDYANATHAN, J.

cad

In view of the above discussion, all the applications stand dismissed.

22.09.2023

cad

To

1 The Commissioner
Income Tax Department
121, Uthamar Gandhi Salai
Chennai

2 The Administrator General & Official Trustee
High Court Buildings
Chennai 600 104

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