IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **22.02.2023**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

O.P.No.451 of 2022

1.M/s.Singhvi Charitable Trust,
Represented by its Founder Trustee,the Managing Trustee,
Shri. N.Sugalchand Jain
Having its registered office at
961, Siyat House, 4th Floor,
Poonamallee High Road,
Purasawalkam, Chennai-600 084.

2.Shri N.Sugalchand Jain
S/o.Late Shri I.Nathmal Jain
25, Ranganathan Avenue,
Kilpauk, Chennai-600 010.

3.Shri S.Vinodh Kumar
S/o. Shri N.Sugalchand Jain
25, Ranganathan Avenue
Kilpauk, Chennai-600 010. ... Petitioners

PRAYER: Original Petition filed under Section 34 of the Indian Trusts Act, 1882, prays to grant permission to the petitioners to sell the Trust Property which is morefully described in the schedule hereunder soas to discharge the loan advanced by the trustees used for PFA (Chennai) Charitable Trust and the remaining amount shall be utilised for the benefit of the Trust.

For Petitioners : Mr.Jayesh B.Dolia, Sr. Advocate for M/s.Aiyar and Dolia

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ORDER

The petitioners seek permission to sell the property of the Trust described in the schedule to the petitioner under items 1 to 4.

2. The petitioners assert that the Trust was formed in the year 1974 under Document No.155 of 1974, which was registered before the SRO, Triplicane. The Trust had purchased a property ad-measuring a total extent of 3.40 acres in Athivakkam Village, Ponneri Taluk, Thiruvallur District under four sale deeds. It is stated that the Trust had taken loans of about Rs.9.71 crores from its Trustees in order to fulfil the objects of the Trust, such as provision of loans to the People for Animals (Chennai) Charitable Trust so as to enable construction of shelter homes for the animals.

3. The petitioners state that the lands in Athivakkam are not fetching revenue currently and that if the said lands are sold, it would enable the

Trust to partly repay the loans received from the Trustees and also fulfil the objects of the Trust.

4. The petitioners adduced evidence to establish their entitlement to the relief claimed by examining the third petitioner as PW1. In course of his examination-in-chief, the 27 documents listed at the foot of this order were exhibited as Exs.P1 to P27. The Trust Deed dated 27.11.1974 (Ex.P2) sets out the names of the first trustees. The said list includes the second petitioner herein, who is said to be the founder Trustee. Clause 11 of the Trust Deed empowers the Trustees to sell the Trust property. Clause 11 is set out below:

> *"11. The Trustees shall have the power to sell, convert, or otherwise release any trust properties or invest the same in any form of investment or change the form of investment where they are satisfied that such investment will yield a reasonable income or where it is deemed expedient on necessary for carrying out the objects of Trust."*

5. The original Board Resolution of the Trust dated 30.11.2022 (Ex.P1) reveals that Mr.S.Vinoth Kumar, Trustee, has been authorized to seek permission from this Court for the sale of the property described in the schedule to the petition. The income-tax returns of the Trust for the assessment year 2022-2023, which corresponds to the financial year 2021-2022, is on record (Ex.P25). The balance sheet of the Trust as on 31.03.2022 is enclosed. The balance sheet discloses that the Trust has borrowed from Pramod Jain, Prasand Chand Jain, Pratik Jain and S.Vinodh Kumar. The aggregate amount borrowed from these four persons is Rs.9.17 crore. A valuation24) report provided by Mr.Selvaraj, Chartered Engineer, dated 06.06.2022 on record (Ex.P19). The valuer has valued the schedule property at Rs.4 crore. The petitioners have published advertisements in English and Tamil dailies with regard to the proposed sale of the property (Exs.P15 to 18). The offer letters dated 30.11.2022 and 01.12.2022 are on record (Exs.P23 and P24). These offer letters are for the purchase of the relevant asset for a sale consideration of Rs.4.75 crores (Rs.P23) and Rs.4.25 crores (Ex.P24), respectively.

6. Based on the assertions in the petition and the evidence adduced in support thereof, O.P.No.456 of 2022 is allowed and the petitioners are granted permission to sell the schedule mentioned property on the following terms:

(i) The sale shall be effected for a sale consideration not less than Rs.4.75 crore.

(ii) The sale proceeds shall be used only to discharge the liabilities of the Trust or fulfil the objects of the Trust.

(iii) Upon completion of the sale, an affidavit shall be filed before this Court along with all supporting documents.

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Index : Yes / No

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Petitioners' witness:

P.W.1 – Mr.S.Vinodh Kumar

Documents exhibited by the petitioners:

Exhibit No.	***Description***
Ex.P1	The original board resolution dated 30.11.2022.
Ex.P2	The photocopy of the Trust Deed dated 27.11.1974 (Compared with the original)
Ex.P3	The photocopy of the amendment of Trust Deed dated 18.11.1975 (Compared with the original)
Ex.P4	The photocopy of the Sale Deed dated 20.07.1998 (Compared with the original)
Ex.P5	The photocopy of the Sale Deed dated 05.10.1998 (Compared with the original).
Ex.P6	The photocopy of the Sale Deed dated 19.11.1998 (Compared with the original)
Ex.P7	The photocopy of the Sale Deed dated 14.07.1999 (Compared with the original)
Ex.P8	The computer generated Patta bearing No.1194.
Ex.P9	The photocopy of the Lease Deed dated 27.03.2018 (Compared with the original)
Ex.P10	The photocopy of the rectification of Lease Deed dated 20.08.2019 (Compared with the original)
Ex.P11	The computer generated income tax return acknowledgment for assessment year 2021-2022 (Compared with the original)
Ex.P12	The online printout of balance sheet as on 31.03.2021.
Ex.P13	The online printout of income and expenditure account for the year ended 31.03.2021.
Ex.P14	The original confirmation of accounts from Singhvi Charitable Trust of the Trustees for the period 01.04.2021 to 31.03.2022..
Ex.P15	The copy of the paper publication effected in the "The Times of India" dated 20.05.2022..
Ex.P16	The copy of the paper publication effected in "The Times of

Exhibit No.	***Description***
	India" dated 21.05.2022.
Ex.P17	Ex.P16 is the copy of the paper publication effected in "Dina Thandhi" dated 22.05.2022.
Ex.P18	The copy of the paper publication effected in "Economic Times" dated 25.05.2022.
Ex.P19	The photocopy of the valuation report dated 06.06.2022.
Ex.P20	The computer generated income tax return acknowledgment for the assessment year 2021-22.
Ex.P21	The brochure of PFA.
Ex.P22	(Series 2 Nos) are the computer generated income tax return acknowledgments for the assessment year 2021-202 and 2022-2023.
Ex.P23	The original offer letter dated 30.11.2022.
Ex.P24	The original offer letter dated 01.12.2022.
Ex.P25	The computer generated income tax return acknowledgment of Singhvi Charitable Trust for the assessment year 2022-2023.
Ex.P26	The computer generated income tax return acknowledgment of Trustees for the assessment year 2022-2023.
Ex.P27	The online printout of guideline value and property valuation.

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