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O.P.No.814 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

O.P.No.814 of 2022

M/s.Y.R.Gaitonde Medical

Educational and Research Foundation Trust,
Represented by its COO A.K.Srikrishnan,
No.15, East Street, Kilpauk Garden,
Madras – 600 010.

... Petitioner

PRAYER: Original Petition filed under Section 34 of the Indian Trust Act, 1882, praying to accord permission for the sale of an open land measuring about 51 ½ cents which is morefully described in Schedule 'A' hereunder to the prospective buyer or to such other person as may be found suitable at a minimum sale price of Rupees Twenty Crores and Seven Lakhs and invest the sale proceeds in the bank account of M/s.Y.R.Gaitonde Medical, Educational and Research Foundation Trust, with ICICI Bank Limited, Cenotaph Road Branch, in the Account No.00105005599 and utilise the same for building a research and development centre at Pune which is more fully described in Schedule 'B'.

(Amended as per order dated 03.04.2023 in Appl.No.1993 of 2023 in O.P.No.814 of 2022)

For Petitioner : Mrs.V.Pushpa

for Mr.Rajinish Pathiyil

ORDER



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This petition has been filed seeking for a permission to permit the petitioner to sell the Trust property in the petition Schedule A mentioned property for a sale consideration of Rs.20,07,00,000/- [Rupees Twenty Crores and Seven lakhs/-] to prospective buyer or such other person and also permission for deposit of the sale consideration amount into the bank account of M/s Y.R.Gaitonde Medical Educational and Research Foundation Trust.

2.The petitioner herein had examined himself as PW1 and marked documents Exs.P1 to P7. Ex.P1 is the photocopy of the Trust Deed dated 08.07.1985. Ex.P2 is the online copy of certificate of registration granted by the Income Tax Department to the petitioner Trust. Ex.P4 and P5 are the photocopy of the sale deeds dated 11.05.2005 and 23.06.2022 respectively. Ex.P7 is the original board resolution dated 26.06.2022.

3.It is seen that the Trust has passed resolution dated 26.06.2022, unanimously by all the trustees deciding to sell the property, and the necessary resolutions have been passed by the trust empowering Mr.A.K.Srikrishnan the petitioner herein, not only to sign the applications but also to act on behalf of the trust to execute necessary documents. The



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trust deed provides for not only purchase of property but also sale of property. The petitioner further states that one prospective buyer has come forward and made an offer to purchase the land at Kovilambakkam Village, measuring to an extent of 51 ½ cents morefully described in the Schedule A of the petition for Rs.8950/- per Sq.ft, and for a total sale consideration of Rs.20,07,00,000/-

4.I have considered the claim of the learned counsel for the petitioner and perused the materials available on record before this Court.

5.The petitioners are permitted to sell the property to prospective buyers, for a sum of Rs.20,07,00,000/- the same shall be deposited into the Trust account of Y.R.Gaithonde Medical, Educational and Research Foundation Trust. Such sale at any case shall be made within 90 days from the date of receipt of the copy of this order.

6.Considering the averments made in the petition and also considering the affidavit filed by the petitioner, I am of the view that the claim of the petitioner can be considered subject to the following conditions:



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(a) the prospective buyer shall make the payment of balance sale consideration and take steps to get the Sale Deed registered for petition mentioned Schedule A property within a period of 90 days from the date of receipt of a copy of this order.

(b)The sale consideration so received by the petitioner shall be only utilized towards the object for which the Trust had been incorporated.

(c)The petitioner shall file the accounts relating to the sale consideration and also place on record the purpose for which the sale consideration is to be utilized by the Trust within a period of 90 days from the date of registration of Sale Deed.

7. Therefore, the petitioner is permitted to sell the petition mentioned Schedule A property for a sale consideration of Rs.20,07,00,000/- to prospective buyers subject to the aforementioned conditions.

8. With the aforesaid directions, this Original Petition is ordered. However, there shall be no order as to costs.

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Index :Yes/No

Speaking: Yes/ No

Neutral Citation: Yes/ No

Petitioner's witness:

P.W.1 – Mr.A.K.Srikrishnan

Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the Trust Deed dated 08.07.1985
Ex.P2	Online copy of the certificate of registration granted by the Income Tax Department to the Petitioner Trust
Ex.P3	Online copy of the certificate of exemption obtained from the Income Tax Department under Section 80-G of the Income Tax Act by the petitioner Trust
Ex.P4	Photocopy of the Sale Deed dated 11.05.2005
Ex.P5	Photocopy of the Sale Deed dated 23.06.2022
Ex.P6	Computer generated encumbrance certificate for the period 01.04.2005 – 09.05.2022
Ex.P7	Original Board Resolution dated 26.06.2022

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