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O.P.No.763 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU
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M/s.Secular Trust,
Represented by its Sole Managing Trustee and Administrator,
Mr.D.Indrajith,
also known as Mr.Ajith,
Door No.29/14, III Main Road, R.A.Puram,
Chennai – 600 028. ... Petitioner

Vs.

M/s.OMR Outdoor Media Reach LLP,
An incorporated LLP under LLP Act 2008,
Represented by its Designate Partner,
Mrs.B.Sinduja,
Senthil Andavar Street, Dhanalakshmi Colony Extension,
Vadapalani, Chennai – 600 026. ...Respondent

PRAYER: Original Petition filed under Section 34 of the Indian Trust Act 1882, to pass the following orders:

a)Permitting the Petitioner Trust to sell the Schedule “B” property on “as is where is basis” admeasuring 79045 sq.ft. for a sale consideration of Rs.18,00,00,000/- to the respondent.

b)Directing the respondent to make payment of balance sale consideration to the petitioner and conclude the entire purchase transactions and register Sale Deed for Schedule “B” property within 180 days from the



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date of the order of this Court.

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c) Directing that the expenses incurred on this account to be borne from and out of the funds of the Trust and

d) For such further or other orders as this Court may deem fit, proper and necessary under the circumstances of the case and thus render justice.

For Petitioner : Mr.E.Om Prakash, Senior Counsel
for Mr.K.Mitesh

For Respondent : Mr.Saravanakumar

ORDER

The instant Original Petition has been preferred seeking permission to sell a portion of the property more fully described in the Schedule “B” to the petition admeasuring 79045 sq.ft. for a sale consideration of Rs.18,00,00,000/-.

2. When the matter was taken up for hearing on 22.02.2023, this Court considering that the offer made by the respondent herein was only 80% of the guideline value, the petitioner was directed to publish a sale notice in one issue of the English daily, “*Times of India*” and in one issue of the Tamil daily, “*Dhinathanthi*” calling for bids for purchase of the property as is where is basis. The petitioner was also directed to place such bids before this Court on the next date of hearing.

3. Today when the matter was taken up for hearing, an affidavit was



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filed on behalf of the petitioner indicating compliance of the order dated 22.02.2023. The Paper Publication made in pursuant to the aforesaid order was also placed on record, I am satisfied the manner in which the Paper Publication has been effected by the petitioner. The petitioner had also in his affidavit stated that pursuant to the Paper Publication there were three enquiries on 03.03.2023 and two enquiries on 04.03.2023, along with the affidavit, the visitors note book that was maintained pursuant to the Paper Publication has been produced.

4.The petitioner had also further made an averment that even though there were five enquiries on that date, no offers have been received by them from any person.

5.A counter affidavit has also been filed by the respondent, wherein he had indicated payment a sum of Rs.1,60,00,000/- to the petitioner and they had also given an undertaking that the respondent has the financial capacity to mobilize the balance sale consideration at the time of registration of the Sale Deed.

6.The petitioner in his affidavit has categorically stated that there are



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third party tenants in the property only for which reason, it was not able to find any purchaser.

7.Considering the averments made in the petition and also considering the affidavit filed by the petitioner dated 16.03.2023, I am of the view that the claim of the petitioner can be considered subject to the following conditions:

(a)The respondent shall make the payment of balance sale consideration and take steps to get the Sale Deed registered for petition mentioned “B” Schedule property within a period of 180 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.

8.Therefore, the petitioner is permitted to sell the petition mentioned



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“B” Schedule property as is where is basis measuring an extent of 79045 for a sale consideration of Rs.18,00,00,000/- to the respondent subject to the aforementioned conditions.

9.With the aforesaid directions, this Original Petition is ordered.

However, there shall be no order as to costs.

20.03.2023

Index :Yes/No

Speaking Order:Non-Speaking Order

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K.KUMARESH BABU, J.

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