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CRP(MD).NO.2550 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No.2550 of 2014

and

C.M.P(MD).No.2022 of 2023

1.S.S.R.Trust Public Trust

His Chairman and Managing Trustee,

Balasubramanian,

D.No.25, Srirampettai Street,

CIT Nagar, Chennai -35.

Presently residing at

No.30/24, 1st Cross Street,

Navarasam Appartments,

West C.I.T.Nagar, Chennai 35.

2.Balasubramanian

3.Rajkumar

4.Shankar

... Petitioners/Petitioners

Vs.

Nil

... Respondent

PRAYER : Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 23.06.2014 in Trust O.P.NO.3 of 2012 on the file of the Principal District Judge, Theni.

For Petitioners : Mr.S.Meenakshi Sundaram
Senior Counsel for
Mr.J.Ananumar



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ORDER

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The present civil revision petition has been filed challenging an order, in which the Trust.O.P.No.3 of 2012 was partly allowed.

2. The revision petitioners are the petitioners in Trust.O.P.No.3 of 2012. According to the petitioners, they are settled in Chennai in view of business activities and the property is being located in Theni District. They are not able to take care of the same and hence, some third parties are attempting to alienate the property and encroach upon the same. On the said ground, the trustees of the said trust have filed an application seeking permission of the Court to alienate 5 items of property so as to purchase properties in Chennai having equal value. However, an order has been passed by the Trust Court, permitting alienation of only the first item of the property. Challenging the disallowed portion, the present revision has been filed.

3. The learned Senior Counsel appearing for the petitioner/trust had contended that if the first item of the property in Survey No.1426 alone is sold, that would fetch approximately a meagre amount of Rs.2 Lakhs. However, the property that is proposed to be purchased in



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Chennai is having a value of Rs.24 Lakhs. In such an event, unless all the five items are sold, they will not be able to purchase the property in Chennai.

4. The learned Senior Counsel further contended that even if all the five items of property are sold, it would fetch approximately a sum of Rs.20 Lakhs and trustees will have to shell out the pay the balance amount to purchase the property in Chennai. In such view of the matter, unless the Court permits alienation of all the five items of property, no purpose would be served in alienating first item of the property alone.

5. Before the learned District Judge, Theni, no documents have been placed on the side of the trust to establish the value of the property that is sought to be purchased in Chennai. Now, C.M.P(MD).No.2022 of 2023 has been filed enclosing a copy of sale agreement indicating the value of property that is to be purchased in Chennai. A perusal of the said sale agreement indicates that the value of the property that is to be purchased in Chennai is Rs.24 Lakhs. Relying upon the said registered sale agreement, the learned Senior Counsel had contended that by alienating the first item of the property the petitioner/trust will not be in a



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position to purchase the property in Chennai. In view of the said matter, this Court passes the following order:

(i) The order passed by the learned District Judge, Theni, on 23.06.2014 in Trust.O.P.No.3 of 2012 insofar as the rejection of alienation of items 2 to 5 are concerned, is hereby set aside;

(ii) The matter is remitted back to the file of the learned District Judge, Theni, for considering the request of the petitioner/trust for alienation of the rest of the items also, on the basis of the registered sale agreement dated 09.02.2023.

(iii) The original of the registered sale agreement shall be marked before the learned District Judge. The learned District Judge is directed to consider the matter afresh on merits and in accordance with law and pass orders on or before **30.04.2023**.

6. With the above observations, the Civil Revision Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

15.02.2023

Index : Yes / No
Internet : Yes / No
Rmk
To
1. The District Judge, Theni.



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Rmk

Order made in
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15.02.2023