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C.S.No.51 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2024

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.S.No.51 of 2024

1.M/s.Pachaiyammal Educational Trust
Rep. by its Managing Trustee
Mr.S.Vengateswaran
S/o.Sekhar
Door No.9-B, Winding Driver Chinnasamy Street
Dharmapuri Town, Dharmapuri Taluk
Dharmapuri District

2.Rajeshwari Sekhar
D/o.Sekhar
Additional Trustee
M/s.Pachaiyammal Educational Trust
Door No.9-B, Winding Driver Chinnasamy Street
Dharmapuri Town, Dharmapuri Taluk
Dharmapuri District

... Plaintiff

Prayer: Civil Suit filed under Order IV Rule 1 of O.S. Rules r/w. Order VII
Rule 1 and Section 92(f) of CPC , to pass a Judgment and Decree:

a) to permit the Plaintiff to sell item No.1 to 29 of the properties
which are more fully described in the schedule hereunder to any
purchaser who may offer to purchase for the market price



C.S.No.51 of 2024

b) to permit the Plaintiff to invest the sale proceeds in any nationalised bank and to use the interest earned on the said fixed deposit for meeting the expenses of maintaining and managing the Trust and also for fulfilling the objects of the Society

For Plaintiff : Mr.N.Umapathi

For Auction Purchaser : Mr.M.R.Franklin

ORDER

The Plaintiff was filed under Order IV Rule 1 of O.S. Rules r/w. Order VII Rule 1 and Section 92(f) of CPC , permitting the Plaintiff to sell item 1 to 29 of the properties (schedule property) to any purchase who offer the purchase for the market price and permit the Plaintiff to invest the sale consideration in any of the nationalised banks and use the interest earned on the said fixed deposit for meeting expenses of maintaining and marketing the managing the trust and for incidental relief.

2.The founder of the Plaintiff Trust is Mrs.Saradha Sekhar, vide Trust deed Doc.No.74 of 1995 dated 30.10.1995, which was registered before the Joint Sub Registrar – I, Dharmapuri. They purchased the property as per the clauses in Trust Deed. After the death of Mrs.Saradha Sekhar, the present



C.S.No.51 of 2024

Trustees are come into force.

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3. There is a supplementary deed dated 28.09.1998 registered as Doc.No.74 of 1998 and another supplementary deed was executed on 11.07.2002 vide Doc. No.123 of 2002. The present Managing Trustee Mr.S.Vengateshwaran, took charge on 11.08.2018 and as per supplementary deed dated 13.04.2022, at present the board of Trustees are as follows:

Mr.S.Vengateshwaran - Managing Trustee with life time

Mr.M.G.Sekhar - Additional Trustee

Mrs.S.Rajeshwari - Additional Trustee

Mr.Pradeep - Additional Trustee

4. The Trust is the absolute owner of the property. [Item Nos.1 to 29, herein after referred as 'schedule property']. As per the Plaint, the market value of the property is Rs.12,34,14,000/-. The schedule of the property was purchased in the name of the Trust by sale deed on the following dates, 29.11.2001, 03.12.2001 (3 Nos.), 06.12.2001, 12.12.2001 (2 Nos.), 3.12.2001, 12.12.2001, 27.12.2001 (2 Nos.), 31.12.2001 (5 Nos.),



C.S.No.51 of 2024

27.02.2002, 28.03.2002, 04.04.2002, 05.04.2002, 19.04.2002, 04.12.2002 (2 Nos.), 09.07.2003 (3 Nos.), 16.07.2003, 27.08.2003 & 02.09.2003.

5.For the purpose of maintenance of the Colleges run by the Trust, they seek permission to sell the property. The Plaint is one under Section 92(f) of CPC, and therefore, necessary paper publication has been effected. Thereafter, the Registry has invited tender from the prospective purchasers and received seven sealed covers and the matter was posted before this Court on 22.10.2024. A detailed order was passed by this Court as to the opening of the sealed cover and award of the bid in favour of one Mr.D.C.Elangovan for a sum of Rs.16,00,00,000/-, which is more and over than the Plaint value as projected by the Plaintiff assumes significance.

6.Pursuant to the order dated 22.10.2024, wherein this Court has declared one Mr.D.C.Elangovan as successful bidder and his bid offer was accepted provisionally. In order to find out whether he has financial capacity to comply with the bid as quoted in the bid letter, this Court has directed the successful bidder, who was provisionally selected viz.,



C.S.No.51 of 2024

Mr.D.C.Elangovan to produce 25% of bid amount. Accordingly, today (25.10.2024), M.R.Franklin, learned counsel, who filed vakalat on behalf of the successful bidder has produced five Demand Drafts drawn in the name of M/s.Pachaiyammal Educational Trust, Dharmapuri viz., Plaintiff to the tune of Rs.80,00,000/- each (totally Rs.4,00,00,000/-). Since the original Demand Drafts are produced before this Court, the same is hereby recorded, then returned to the learned counsel for the successful bidder, Copy of the same was received by way of memo and kept in file.

7.Having satisfied with the financial capacity of the said successful bidder, whose initial selection was provisional is hereby made absolute. This Court is satisfied with the financial capacity of the said person to comply with the sale consideration as quoted by him in the said bid amount of Rs.16,00,00,000/-.

8.Learned counsel for the successful bidder has also produced another Demand Draft for a sum of Rs.10,00,000/- in favour of the Registrar General, High Court, Madras vide DD.No.594878, dated 24.10.2024 drawn



C.S.No.51 of 2024

in Indian Bank, Dharmapuri Branch as directed by this Court on the earlier order dated 22.10.2024. Accordingly, the Registrar General of this Court is directed to keep the said demand draft and return the previous demand draft which was mentioned in the earlier order dated 22.10.2024, after taking photocopy alongwith attestation of the learned counsel. The photocopy of the Demand Draft for a sum of Rs.10,00,000/- drawn in favour of the Registrar General, High Court, Madras vide DD.No.594878, dated 24.10.2024 at Indian Bank, Dharmapuri Branch shall be annexed with the order and kept in file.

9.The Plaintiff Trust is hereby directed to execute the sale deed for the sale consideration of Rs.16,00,00,000/- within a period of two weeks, failing which, the Registry shall execute the sale deed in their favour.

10.Since the original Demand Drafts are drawn in the name of the Plaintiff Trust, this Court directs the Plaintiff viz., Managing Director of the Trust viz., Mr.S.Vengateshwaran, Mr.M.G.Sekhar, Additional Trustee, Mrs.S.Rajeshwari, Additional Trustee, Mr.Pradeep, Additional Trustee to



C.S.No.51 of 2024

be present before this Court on 28.10.2024 to receive the Demand Drafts which are drawn in the name of the Plaintiff/Trust. The successful bidder is also directed to be present before this Court for handing over the Demand Drafts, to complete the part of sale consideration, and thereafter balance of sale consideration is to be paid and the sale deed to be executed as stipulated above in paragraph No.9.

11.The Management Trustee and Additional Trustees have filed this Suit based upon the clause in the Trust deed, there are two more Trustees as per paragraph 4 of the Plaint and hence, since the sale is effected through the Court following affidavit of undertaking to be filed by the Plaintiff.

1.Joint affidavit to be filed by all the Trustees for confirmation of the sale of the trust property on Monday (28.10.2024) and they have to express that they have no objection for the sale and the said amount to the extent of Rs.16,00,00,000/- as fixed by this Court as confirmed in the earlier portion of this order.

2.In the said affidavit the trustees shall make an undertaking that they are concurrent with the bid amount and they will execute the sale



C.S.No.51 of 2024

WEB COPY

deed without any delay and undertake that there is no attachment, mortgage, lease or civil proceedings, revenue proceedings viz., income tax proceedings pending against this property.

3.The Trustees of Plaintiff shall give undertaking that there is no proceedings pending or initiated under Section 37(B) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act by the competent authority and schedule property is free from encumbrance.

4.Undertaking to the effect that no proceedings under Foreign Exchange Management Act, or Foreign Exchange Regulation Act or Prevention of money laundering Act or Income Tax Act is pending against this property shallalso be given.

5.Affidavit by all the Trustees either jointly or individually to the above effect to be filed before this Court on 28.10.2024.

12.The Civil Suit stands decreed accordingly. No costs.

13For appearance of the Plaintiff/all the Trustees and successful bidder before this Court to receive the Demand Draft for the amount of



C.S.No.51 of 2024

Rs.4,00,00,000/- drawn by the successfully bidder as confirmed by this Court, post the matter on 28.10.2024.

25.10.2024

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Note: Issue order copy by 28.10.2024.

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order



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C.S.No.51 of 2024

RMT.TEEKAA RAMAN, J.

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C.S.No.51 of 2024

Dated: 28.10.2024