IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

C.S.No.86 of 2024

1.Sri Agastyar Trust,
Rep. by Managing Trustee,
Mr.R.Ramesh,
having registered office at,
T.N.K House, 2nd Floor,
No.48, Anna Salai,
Chennai – 600 002.

2.R.Ramesh .. Plaintiffs

/versus/

Nil .. Defendant

This Civil Suit is filed under Section 92 of CPC read with Order IV Rule 1 of the Madras High Court Original Side Rules read with Order VII Rule 1 of CPC, prayed for a judgment and decree,

a).To permit the plaintiffs represented by its Managing Trustees Mr.K.N.Mohanram or Mr.R.Ramesh to sell the land measuring to an extent of 24,539 sq.ft., situated at Tondiarpet in Chennai, morefully described in the schedule to the plaint to any purchaser who may offer to purchase at the market price;

b).To permit the plaintiffs represented by its Managing Trustees Mr.K.N.Mohanram or Mr.R.Ramesh to enter into joint development with any person or company or entity to develop the land measuring to an extent of 24,539 sq.ft., situated at Tondiarpet in Chennai, morefully described in the schedule to the plaint who may offer to develop at the market price.

c).To permit the plaintiffs represented by its Managing Trustees Mr.K.N.Mohanram or Mr.R.Ramesh to sell the undivided share of land to any third party with regard to the schedule mentioned property who may offer to purchase for the market price.

d).To permit the plaintiffs represented by its Managing Trustees Mr.K.N.Mohanram or Mr.R.Ramesh to utilize the sale proceeds from the schedule mentioned property for fulfilling the objects of the Trust.

For plaintiffs	Mr.S.Parthasarathy, Senior Counsel For Mr.K.S.Navin Balaji
Defendant	Nil

JUDGMENT

The suit had been filed under Section 92 of CPC by the two plaintiffs in effect by a Public Charitable Trust, represented by its

Managing Trustee who is the 2nd plaintiff seeking permission to sell the land measuring 24,539 sq.ft. at Tondiarpet in Chennai to any purchaser or in the alternate to permit the plaintiffs to enter into a joint development with any person or company who are interested in developing the land measuring 24,539 sq.ft. and consequently to sell the undivided share of land to the third party and to utilize the sale proceeds for fulfilling the objects of the trust.

2.There is no defendant.

3.In the plaint it had been stated that the 1st plaintiff is a Public Charitable Trust constituted on 28.11.1941 consequent to a partnership deed dated 28.11.1941 entered into Mr.K.Rajagopal Chettiar and Mr.V.S.Nanjappa Chettiar. They had agreed to carry on business in the name and style of K.Rajagopal and Company. The main business was to purchase waste material from East India Industries (Madras) Limited and to sell them for profit. It was also agreed that out of the net profit, 80% of the total profit shall be allotted to charitable and religious objects after deducting payment of charges and expenses. It had been stated that the plaintiffs had been granted exemption under the Income Tax Act by order of the Hon'ble Supreme Court.

4.It had been stated that subsequently, the 1st plaintiff had purchased 56 grounds of land at S.Nos.3659/1, 3661 in Tondiarpet by sale deed dated 14.11.1962 registered as Doc. No.310/1963 in the office of the District Registrar Madras, Chengalpet, Registration District of North Madras. In order to augment the income of the trust, a cinema theatre had been built up in the name of Sri Agastya Theatre. The original founder K.Rajagopal Chettiar, had passed away on 30.06.2008. Thereafter, a Deed of Declaration of Trust was registered on 04.10.2008 as Doc. No.1467 of 2008 in the office of the Sub-Registrar, Periamet. This changed the objects of the trust. This led to the filing of C.S.No.323 of 2020 and specifically, there was an amendment to bring the objects back in line with the original trust. A Deed of Amendment was thereafter registered on 09.12.2021 registered as Doc. No.176 of 2021 in the office of the Sub-Registrar, Periamet. The 2nd plaintiff and K.N.Mohanram were appointed as Managing Trustees to administer the affairs of the 1st plaintiff.

5.It had been stated that the 1st plaintiff had donated Rs.1,17,55,781/- for various objects of the trust in the Assessment Year

2022 – 2023 and for the Assessment Year 2023 – 2024 contribution had been made amounting to Rs.1,28,53,467/-. It had also been stated that CMRL had acquired 12,700 sq.ft out of the 56 grounds. The trust was in possession of 88,315 sq.ft. Thereafter, they had given 55,024 sq.ft by way of lease to the Medical Research Foundation which lease deed had been registered as Doc. No.3642 of 2022 on the file of the Sub-Registrar, Royapuram. A Rectification Deed had also registered. The balance land is 24,539 sq.ft. which remains unutilized and therefore, permission is now sought to sell the land or to put it up for joint development.

6.The plaintiffs was directed to tender evidence and accordingly, the 2nd plaintiff, R.Ramesh examined himself as PW-1. The Partnership Deed dated 28.11.1941 was marked as Ex.P1. The Sale Deed by which the larger extent of property was purchased dated 14.11.1962 was marked as Ex.P2. The judgment of the Hon'ble Supreme Court granting exemption under the Income Tax Act was marked as Ex.P3 and the judgment in C.S.No.323 of 2020 was marked as Ex.P4. The amendment to the trust deed was marked as Ex.P5. The statement of charities were marked as Exs.P6 and P7. The Lease Deed in favour of the

Madras Medical Research Foundation was marked as Ex.P8 and its Deed of Rectification was marked as Ex.P9. The minutes either approving sale of the property or joint development was marked as Ex.P10.

7.Heard the learned Senior Counsel on behalf of the plaintiff.

8.The learned Senior Counsel stated that the 1st plaintiff trust always diligently upheld the objects of the trust and in this connection, learned Senior Counsel pointed out the contribution in the Assessment Years 2022 – 2023 and 2023 – 2024 wherein, sums of Rs.1,17,55,781/- and Rs.1,28,53,467/- had been expended towards various charities like annadhanam, temple renovation, pooja expenses, medical contribution and educational expenses. It had also been pointed out that a larger area of the land measuring 55,024 sq.ft. had been leased out to Medical Research Foundation / Sankara Nethralaya for providing state of art Eye Care Hospital to meet the requirement of the general public in North Chennai area. It had thus been stated that the trust is discharging the objects for which the trust was originally formed. It is stated that this excess land of 24,539 sq.ft. is lying unutilized and to augment the interest of the trust, a decision had been taken in the minutes by the trustees to either sell the land or to develop the land.

9.After getting instructions, the learned Senior Counsel stated that it would be only advantageous that the land is put to joint development and consequent to such joint development, to also sell the undivided share of land or any portion to the nominee of the joint developer or nominee of the plaintiff. Such permission is also sought.

10.In view of the reasons stated, though in the plaint, the relief is also sought to sell the land in entirety that particular relief is not granted, but rather permission is granted for joint development of land for 24,539 sq.ft. in manner known to law and in accordance with the agreement entered into with the joint developer and to sell undivided portion of land in accordance with the joint development agreement.

I1.In the result, the suit is partly decreed. No costs.

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Neutral citation : Yes / No

Index : Yes / No
Speaking order : Yes / No

Plaintiffs' side Witnesses:

P.W.1 – Mr.R.Ramesh

Plaintiffs' side Documents:

Ex.P.1	28.11.1941	Photocopy of deed of partnership entered between K.Rajagopal Chettiar and Mr.V.S.Original Memorandum of Understanding
Ex.P.2	14.11.1962	Photocopy of the sale deed in favour of the 1st plaintiff trust.
Ex.P.3	05.02.1998	Online printout of judgment reported in (1998) 5 SCC 588, Sri Agasthiyar Trust, Madras Vs. Commissioner of Income Tax, Madras) (Affidavit under Section 65B of the Indian Evidence Act)
Ex.P.4	22.10.2021	Certified copy of the judgment and decree in C.S.No.323 of 2020
Ex.P.5	09.12.2021	Copy of Deed of Amendment to the Trust Deed dated 09.12.2021.
Ex.P.6		Original statement of Charities made by the 1st plaintiff trust for AY 2022-2023
Ex.P.7		Original acknowledgment card received from the defendant
Ex.P.8	20.10.2022	Certified copy of Lease Deed executed between the 1st plaintiff and Medical Research Foundation (Sankara Nethralaya)
Ex.P.9	29.01.2024	Certified copy of Rectification Deed dated 29.01.2024.
Ex.P.10	21.02.2024	Minutes of Meeting
Ex.P.11	09.03.2024	News Article reported in the Hindu, Chennai edition
Ex.P.12	09.03.2024	News Article reported in Times of India, Chennai Edition.

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C.V.KARTHIKEYAN,J.

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