



C.R.P.No.4152 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P.No.4152 of 2017

Jesus Heal Ministry Trust

... Petitioner

Vs

1.K.Kulanthai Theresa
2.2.T.M.Ummar Kathab
3.F.Leyander Samuel

... Respondents

(3rd respondent is impleaded vide Court order dated 17.10.2023 made in C.M.P.no.2884 of 2022 in C.R.P.No.4152 of 2017)

PRAYER:- Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decretal order dated 19.08.2017 made in Trust O.P.No.211 of 2016 on the file of the Principal District Judge, Coimbatore.

For Petitioner : Ms.Archana V.
for Mr.V.Anandamurthy

For R1 : Died
For R2 : Tapal not yet returned
For R3 : Mr.S.Koushik

Page No: 1/9



C.R.P.No.4152 of 2017

ORDER

This Civil Revision Petition has been filed against the order dated 19.08.2017 made in Trust O.P.No.211 of 2016 on the file of the Principal District Judge, Coimbatore.

2. Heard the learned counsel for the petitioner as well as the learned counsel appearing on behalf of the third respondent.

3. The learned counsel for the petitioner and the learned counsel for the third respondent submits that the second respondent is not a proper and necessary party to this Revision Petition.

5. The learned counsel for the petitioner submits that the Trust is a Public Charitable Trust registered on 23.12.1994 and is created only for the laudable object of society for serving the people of the society who are downtrodden and below the poverty line. The petitioner is in continuous possession and enjoyment of the subject matter property

Page No: 2/9



C.R.P.No.4152 of 2017

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which is proposed to sell to the second respondent herein. The learned counsel submits that the petitioner is forced to sell the subject matter property to the second respondent since the Trust is unable to meet day-to-day needs and to fulfill its objects from and out of the funds of the Trust. Besides the cost of the maintenance of the said property, taxes and other expenses have gone up quite high during the past decade which makes the maintenance of the property very high without any income. As such, the petitioner Trust thought that it is fit and necessary to sell the subject matter property. The said property is not yielding any income for the petitioner Trust and the said property is not convenient for the petitioner Trust to carry out its object.

6. The learned counsel further submits that the Trust has passed a Resolution on 05.04.2016 and resolved that to sell the subject property to the second respondent subject to moving necessary application before the Court of law. Accordingly, the petitioner filed a petition under Section 34 of the Indian Trust Act, 1882 to permit the petitioner

Page No: 3/9



C.R.P.No.4152 of 2017

to sell the petition mentioned property for a sale consideration of Rs.5,00,000/- on certain condition and directions. The said petition was dismissed by the Principal District Judge, Coimbatore by order dated 19.08.2017. Aggrieved by the same, the present Civil Revision Petition has been filed.

7. The learned counsel for the petitioner contends that the Court below made an error in dismissing the petitioner by stating that only the extract of the Resolution was marked as Ex.P3, while the Ex.P3 clearly shows the complete motive, object and intention to sell the property. It is further contended that the Court below has failed to note that an unregistered Sale Agreement was marked as Ex.P4, only to show the fact that there is a bonafide purchaser of the property for which the Court below ought not to have dismissed the said application and as such the learned counsel for the petitioner sought to set aside the order dated 19.08.2017 passed by the Court below and to allow the Civil Revision Petition.

Page No: 4/9



C.R.P.No.4152 of 2017

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8. The learned counsel for the third respondent, who is the legal heir of the first respondent submits that he has no objection to sell the property of the Trust as proposed by the petitioner to cater the day to day needs of the Trust.

9. Having heard the submissions made by the learned counsels appearing for their respective parties and on careful persual of the material available on record, the Court below while dismissing the petition, it has considered that initially in the proof affidavit filed by the petitioner, it is stated that the petitioner Trust was a registered one, but, in order to prove the same, the Trust Deed was not exhibited. Only after showing the Trust Deed, the Court can come to a conclusion that the Trust is having obligation as stated by the P.W.1. Further in order to prove the Resolution, only the extract of the Resolution was exhibited as Ex.P3. Without showing the Trust Deed and original Resolution Book, this Court cannot come to a conclusion that the majority of the

Page No: 5/9



C.R.P.No.4152 of 2017

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Trust members are supporting to sell the petition mentioned property. The Court below also noticed that the Sale Agreement entered between the petitioner and the second respondent was executed on 12.04.2016. After the amendment in the year 2012 all the Sale Agreements must be registered. But in this case, the Sale Agreement was not registered, which also creates a doubt whether the property is selling for the purpose of fulfilling the object of the Trust or not. So, for the reasons stated above, the Trial Court is not inclined to grant permission to the petitioner to sell the petition mentioned property.

10. During the course of the hearing, on 12.07.2024, this Court directed the petitioner to produce the original Minutes recorded. But, today, the learned counsel for the petitioner represents that they could not produce the same. Under such circumstances, this Court is left with no other option except to accept the findings of the Court below that without showing the Trust Deed and the original Resolution Book, this Court cannot come to a conclusion that the majority of the Trustees are

Page No: 6/9



C.R.P.No.4152 of 2017

supporting for selling the petition mentioned property. In the absence of the original records pertaining to the minutes of the Trust Resolution, this Court is not inclined to consider the request of the petitioner. Accordingly, in the considered view, there is no infirmity or illegality in the order passed by the Court below and interference of this Court is not required.

11. Accordingly, this Civil Revision Petition is dismissed.

No costs.

22.07.2024

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Index : Yes/No

Speaking order : Yes/No

Neutral Citations : Yes/No

Page No: 7/9



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C.R.P.No.4152 of 2017

BATTU DEVANAND,J.

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To

The Principal District Judge,
Coimbatore.

C.R.P.No.4152 of 2017

Page No: 8/9



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C.R.P.No.4152 of 2017

22.07.2024

Page No: 9/9