IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2025

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

Arb.Appln.No.430 of 2025

M/s.Profectus Capital Private Limited,
rep. by its Authorised Signatory
A.Johnson .. Applicant

vs

M/s.Arockia Educational and
Charitable Trust,
rep. by its Managing Trustee/
Trustee and others .. Respondents

ORDER

This application has been filed seeking for a direction from this Court to sell the property, which has been mortgaged to the applicant by the respondents and morefully described in the schedule to the judges summons to recover the outstanding dues of the applicant, amounting to Rs.2,34,05,995/- as on 27.02.2025.

2.Earlier, this Court appointed Hon'ble Mr.Justice N.Kirubakaran, Former Judge of this Court as an Interim Administrator/Receiver so as to ensure that a sum of Rs.2,90,45,161/- is deposited to the credit of Arb.Appln. No.608 of 2023. Despite his best efforts, the parties did not arrive at an amicable settlement before him. Hence, the matters once again have come back to this Court. Earlier, the applicant had filed Arb.Appln.Nos.608 of 2023 and 259 & 260 of 2024 before this Court. In those applications, the applicant pressed for sale of the mortgaged property. Since none of the aforesaid applications were filed seeking permission of this Court for sale of the mortgaged property by this Court order dated 03.03.2025, liberty was granted to the applicant to file a fresh application to seek permission of this Court to sell the mortgaged property. In terms of the directions issued by this Court on 03.03.2025, the applicant has now filed this application seeking permission to sell the mortgaged property and recover their outstanding dues of Rs.2,34,05,995/-, which according to them, is due as on 27.02.2025 from and out of the sale proceeds. A long rope has been given for the respondents to settle the dispute with the applicant.

3.Admittedly, the respondents are defaulters in the repayment of the loan to the applicant. Infact as seen from the proceedings before the Interim Administrator/ Receiver, the respondents had submitted a Valuation Report for the mortgaged property. According to them, the mortgaged property will fetch more than Rs.15 crores. However, neither before the Interim Administrator/Receiver nor before this Court, the respondents have brought a purchaser, who has offered to purchase the mortgaged property for a sum in excess of Rs.15 crores.

4.The applicant has submitted a valuation report before this Court. As seen from the valuation report, the fair market value of the mortgaged property is only Rs.7,85,00,000/-. Several opportunities were granted to the respondents as seen from the proceedings of this Court as well as from the proceedings of the Interim Administrator/Receiver to enable the respondents to bring a buyer, who is willing to buy the mortgaged property for a sum in excess of Rs.15 crores as claimed by the respondents.

5.The respondents have also admitted their liability to the applicant, though they may not admit their liability to the extent of Rs.2,34,05,995/- as claimed by the applicant in this application. Admittedly, the property is also mortgaged to the applicant by the respondents.

6.A counter has also been filed by the respondents before this Court, though the same has not been e-filed and a copy of the same has been placed on record by the learned counsel for the respondents. The main ground of defence raised by the the respondents is that they being an Educational Institution, the interest of students are involved and an order for sale will greatly prejudice the interest of the respondents/educational institution and will affect the career of students.

7.This Court has already given a long rope for the respondents to settle the claim of the applicant. To show their bonafides, they have not paid any money to the applicant subsequent to the filing of this application. When a sum of Rs.2,34,05,995/- is claimed by the applicant as on 27.02.2025 and since a long rope has already been given to the respondents to settle the claim of the applicant, the question of further showing indulgence by this Court in favour of the respondents does not arise. However, the only protection that can be granted by this Court, while considering the fact that the first respondent is an educational institution while ordering sale of the mortgaged property, this Court shall keep this order in abeyance for a period of three weeks to enable the respondents to amicably settle the dispute with the respondents.

8.This Court is satisfied with the reasons contained in the affidavit filed in support of this application seeking permission of this Court to order for sale of the mortgaged property to recover the outstanding amount claimed by the applicant amounting to Rs.2,34,05,995/- due as on 27.02.2025 from and out of the sale proceeds.

9.It is informed by the learned counsel for the applicant that the Interim Adminstrator/Receiver, Former Judge of this Court, who had earlier attempted for mediation, is willing to conduct a sale of the mortgaged property if a direction is issued by this Court.

10.Accordingly, this Court orders sale of the mortgaged property, morefully described in the schedule to the judges summons through the Interim Adminstrator/Receiver, a Former Judge of this Court. The Interim Adminstrator/ Receiver shall conduct the sale by following the due procedure established under law. However, the order of sale passed by this Court is kept in abeyance for a period of three weeks to enable the respondents to settle the claim of the applicant and only thereafter the Interim Administrator/Receiver shall proceed further for completing the formalities of sale as per the procedure established under law for the purpose of getting the best possible price for the property.

11.In terms of the above direction, this application is allowed. Post the matter 'for reporting compliance' on 21.04.2025.

26.03.2025

vga

ABDUL QUDDHOSE,J.

vga

Arb.Appln.No.430 of 2025

26.03.2025