THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.No. 1935 of 2025
and
C.M.P.No.14759 of 2025

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar,
Raja Annamalai Puram,
Chennai – 600 028.

2.The Sub-Registrar,
Office of the Sub Registrar,
Sowcarpet Nagar,
Chennai – 600 001. ...Appellants

Vs.

M/s.R.Udayavaraliah Charities,
No.19, Duraiswamy Road,
T.Nagar, Chennai – 600 017,
Represented by its present Trustee ...Respondent

PRAYER: The Writ Appeal filed under Clause 15 of the Letters Patent praying to set aside the order dated 10.12.2024 made in W.P.No.35322 of 2024 and allow this Writ Appeal.

For Appellants : Mr.U.Baranidharan,
Spl. Govt. Pleader
For Respondent : Mr.Ganesh

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JUDGMENT

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

Under assail is the writ order dated 10.12.2024 made in W.P.No.35322 of 2024.

2. The Inspector General of Registration and the Sub-Registrar/ Registering Authority under the Registration Act have chosen to file the present intra-Court appeal mainly on the ground that the Trustees have presented a sale deed to sell the Trust property, which is running counter to the spirit of the charitable Trust. Thus, the registering Authority refused to register the sale deed.

3. The facts in nutshell shows that on 29.01.1910 last Will and Testament was executed by Mr.Ramanujakutam Vudayavarloo Iyah S/o.Ramanujakutam Ramanujiah, bequeathing the properties in favour of Udayavaraliah Charities. The following bequests were made in the Will:

> *"Rs.100 to be given as charity when Matam may be built"*

> *"Out of the interest to be got on Rs.10,250/- which stands to my creding in M.V.Bummiah Chetti Company, my executors shall as they wist conduct every year these charities namely, Rs.50/- for Jadiaradhana feeding during Brahma Dotsvam of conjeevaram Pravala Varnar's Teple, Rs.50/- for two Brahma Dostvam, Rs.30/- for keeping lights, erecting pandals and watering for ten days of chithri ootvam a Pilla mandapam, Sriperumpudhur and Rs.150/- Mantaha Padi of both Thirulanchinambi Ootsvam and Varadarajaswami Ootsvam conducted in Ramanujakutam in Poonamalle."*

4. The said Will was Probated on 24.08.1912 in O.P.No.12 of 1912 on the file of the High Court of Madras. From and out of the charitable funds, the erstwhile Trustees purchased a property on 07.06.1951 in favour of Udayavaraliah Charities vide Doc.No.535/1951. From and out of the income derived from the said immovable property, the Charity continued and after a lapse of about 72 years a deed of declaration has been registered vide Doc.No.196/2023 in the name of Udayavaralaiah Charities in the pretext of, as if the Trust was functioning without a written Trust Deed and for the purpose of reducing the Trust in writing. Soon after the execution of deed of declaration amongst the Trustees a sale deed was presented for registration on 13.09.2024, in order to sell the property purchased in the name of the Trust in the year 1951. The sub-Registrar/ Registering Authority refused registration and the refusal slip issued on 13.09.2024 came to be challenged in the Writ Petition.

5. The writ Court allowed the Writ Petition mainly on the ground that in the deed of declaration dated 12.12.2023 there is a clause enabling the Trustees to sell the assets. Since power has been conferred on the Trustees, the sale deed has been presented for registration and on that basis, the refusal slip issued by the registering Authority came to be set aside.

6. The leaned Special Government Pleader appearing on behalf of the appellants would mainly contend that the deed of declaration executed on 12.12.2023 cannot confer any power to sell the property of a Trust which was created in the year 1910 originally and the property proposed to be sold was purchased from and out of the Trust funds on 07.06.1951. Therefore, the procedure adopted by the Trustees appears to be improper. Hence, the registering Authority issued a refusal slip.

7. This Court is of the considered view that the ratio decidendi in respect of the impugned order is that the doctrine of Cy-Pres is a legal principle that allows Courts to change the purpose of a charitable Trust, if it is no longer possible to achieve the original intent. It is to be noted that the respondent

Trust was formed by its Trustee more particularly to carry out Charitable Activities. "Cy-Pres Comme possible", which means "as near as possible" for the following reasons:

A. When a charitable Trust's purpose becomes impossible to fulfill, the Courts may change the Trust's purpose.

B. The Courts will try to keep the new purpose as close as possible to the original intent of the Trust creator.

C. The Courts will ensure that the new purpose is equitable and benefits causes or purposes that are similar to the original intent.

D. The doctrine of Cy-Pres is often applied to charities.

E. It can apply to initial failures, when the Trust's purpose was never possible to achieve, or subsequent failures, when the Trust's purpose was once possible but has since failed.

8. The learned counsel for the respondent would mainly contend that the Trustees have never intended to change the purpose, they would like to continue the charity by utilizing the sale consideration for the same purpose for which the Trust was constituted and thus, the grounds raise in this regard by the appellants are incorrect.

9. May that as it be, in any event, the Courts have to consider whether the transactions and the procedures adopted are in consonance with the statues, Rules, intent of the Trust and other requirements. In the present case, the last Will and Testament of Mr.Ramanujakutam Vudayavarloo Iyah dated 29.01.1910 itself is to be construed as constitution of Trust under the statute. While so, the Will was Probated in the year 1912. In the year 2023, the deed of declaration was executed and the intent of the Trustees were expressly made. Admittedly, the property was purchased in the year 1951 from and out of the Trust funds, which was constituted in the year 1910. That being so, the deed of declaration registered in the year 2023 would not confer any power to sell the property immediately, since the procedure for selling the Trust property in the present case is to be followed scrupulously.

10. Though the respondent / writ petitioner states that they have no intent to utilize the Trust fund for any other purposes, the Court must ensure that even while selling the property, the procedures as contemplated are followed, in order to protect the interest of the Trust and the charitable purposes for which the Trust was constituted in the year 1910. Even in case there is no doubt about the intent expressed by the Trustees, Courts are bound to ensure that the procedures followed are transparent and in the interest of the Trust and protect the charitable purpose for which the Trust was created.

11. Therefore, the respondent / writ petitioner has to institute appropriate proceedings seeking permission of the Court to sell the Trust properties and utilize the funds for charity purposes for which the Trust was constituted in the year 1910 in the name of Mr.Ramanujakutam Vudayavarloo Iyah. Granting liberty to the respondent/ writ petitioner to institute appropriate proceedings, the writ order impugned dated 10.12.2024 made in W.P.No.35322 of 2024 is set aside. Consequently, the Writ Appeal stands **allowed**. No costs. Consequently, the connected miscellaneous petition is closed.

(S.M.S., J.) **(M.Q.S., J.)**
22.09.2025

dsa
Index :Yes/No
Neutral Citation :Yes/No
Speaking/Non-speaking order

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar,
Raja Annamalai Puram,
Chennai – 600 028.

2.The Sub-Registrar,
Office of the Sub Registrar,
Sowcarpet Nagar,
Chennai – 600 001.

3.Present Trustee
M/s.R.Udayavaraliah Charities,
No.19, Duraiswamy Road,

T.Nagar, Chennai – 600 017.

S.M.SUBRAMANIAM, J.
and
MOHAMMED SHAFFIQ, J.

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