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C.S.No.212 of .



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.04.2025

CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

C.S.No.212 of 2024

1.Sri Valli Devasena Sametha Subramania Swamy Trust,
Represented by its Managing Trustee,
Mr.N.T.Balasubramanian
Son of Late Thangavel Pillai,
Having Trust Office at
Old No.8, New No.15, Guruvappa Chetty Street,
Chintadripet, Chennai – 600 002.

2.Mr.N.T.Viswanathan

3.Mr.V.Shankar

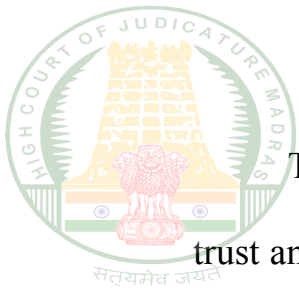
... Plaintiffs

Prayer : Civil Suit filed under Order IV Rule 1 of Madras High Court Original Side Rules read with Section 91(1)(f) of CPC to accord permission to the plaintiff Trust and the trustees to effect sale of the one unit more fully described the schedule “B” mentioned property in favour of the third party purchaser Mr.Nimba Ram or his nominee or nominees and on effecting sale and realization of the sale

For Plaintiff : Mr.R.Thiyagarajan

For defendants : NIL

J U D G M E N T



This instant suit has been instituted seeking permission for the plaintiff trust and its trustees to effect the sale of one unit which is more fully described as schedule 'B' property and to utilise the proceeds from such sale for the completion of the remaining unfinished units of the said property.

2) The case of the plaintiffs is that the first plaintiff trust was established on 01.10.1945. The trust has been diligently performing the 'Kattalais' as enshrined in the trust deed for over 78 years, including collecting rent and revenues from the trust property. All trust records have been maintained in accordance with the provisions of the Trusts Act, and requisite changes have been duly registered with the Registrar Office. In the year 2016, the trust initiated eviction proceedings by filing RCOP Nos. 1738, 1740, 1744, and 1745 before the Rent Control Court, Chennai, and successfully secured eviction of the tenants in 2017. Thereafter, in 2021, the trust applied to the Chennai Metropolitan Development Authority (CMDA) for demolition of the old structure and obtained sanctioned building plans for new construction. The trust proposed to construct apartment units on the property; however, the construction costs have exceeded the allocated budget. Consequently, the trust, in its meeting held in 2022, resolved to empower the trustees to sell a portion of the suit schedule property to manage the expenses. The plaintiffs now



approach this Hon'ble Court seeking prior permission to sell one unit out of the five units, in order to utilise the sale proceeds to complete the construction of the remaining units.

3) On the side of the plaintiffs, Mr.N.T.Balasubramanyam, Managing Trustee of the first plaintiff has been examined as PW1 and marked Ex.P1 to Ex.P11. Mr. Nimbaram, proposed purchaser has been examined as PW2 and marked Ex.P12 and Ex.P13.

4) Heard Mr. R.Thiagarajan, learned counsel appearing for the plaintiff.

5) Mr. R. Thiagarajan, learned counsel for the plaintiffs, submits that the first plaintiff is a Public Religious Trust, constituted on 01.10.1945 under Trust Deed bearing Document No.1651 of 1945. He further submits that the primary object of the trust is to perform daily poojas to the family's tutelary deity, including conducting urchavams and other temple-related religious activities. Additionally, the trust is engaged in charitable acts such as providing financial support to school-going children and organising mass marriages for members of the Mudaliar community.



6) The learned counsel further submits that the founder of the trust executed a Gift Deed marked as Ex.P2 (Document No.1691 of 1945), bequeathing the suit schedule property measuring 2046 sq. ft. situated in Chennai to the trust. The property, which was under tenancy for several years, was the subject of eviction proceedings initiated by the trust in RCOP Nos. 1737, 1738, 1740, 1744, and 1745 of 2016. Pursuant to an order dated 24.08.2017 which were marked as Ex.P3,P4 and P5, the tenants were successfully evicted. The existing building, being in a dilapidated condition, was demolished with a view to optimally utilise the property for the benefit of the trust. Thereafter, the trust resolved to construct a new building consisting of five apartment units. The construction was carried out after obtaining proper planning permission and building permit, and was funded by the trustees from their personal resources. Although the structure of all five units has been substantially completed, the trust has encountered financial constraints due to cost overruns, preventing full completion of the project.

7) He submits that in order to safeguard the interests of the trust and to preserve the remaining four apartments, it has become imperative to sell one apartment unit. The trust has, through a board resolution, authorised the Managing Trustee to effect such sale. The certified copy of the amended



plaintiffs' trust deed empowering the trustees to sell a portion of trust property dated 05.04.2022 was marked as Ex.P8. He further submits that one Mr. M. Nimbaram has offered a fair and reasonable price for one of the apartment units, and the trust has been advised to accept the offer and proceed with the sale. The proceeds from the sale are intended to be used for completing the construction of the remaining units, and upon completion, the trust proposes to let out the four apartments. The rental income derived therefrom shall be utilised to perform the religious and charitable obligations ('Kattalais') of the trust. In light of the above, the learned counsel prays that this Hon'ble Court may be pleased to grant permission to the trust to sell one apartment unit, together with proportionate undivided share in the suit schedule property, and pass a decree accordingly.

8) Considered the arguments of the learned counsel for the plaintiffs and perused the materials available on record.

9) From the submissions made by the learned counsel for the plaintiffs, it is evident that the first plaintiff is a long-standing public and religious charitable trust, propounded in the year 1945, with clearly defined religious and charitable objectives such as conducting daily poojas to the family deity,



performing urchavams, providing financial assistance to school-going children, and organising mass marriages for members of the Mudaliar community. It is

further noted that the suit schedule property, measuring 2046 sq. ft., was gifted by the founder of the trust through a registered Gift Deed marked as Ex.P2. The said property was previously under tenancy, and perusal of Ex.P3 to Ex.P5 reveals that the tenants were lawfully evicted through proceedings initiated in RCOP Nos. 1737, 1738, 1740, 1744, and 1745 of 2016, culminating in eviction orders dated 24.08.2017.

10) Post eviction, the trust undertook the construction of a new building comprising five apartment units after obtaining planning permission and building permits. However, owing to financial constraints and unforeseen cost overruns, the project remains incomplete. To overcome this difficulty and in furtherance of the trust's objectives, the trustees have resolved as evidenced by the board resolution and the amended Trust Deed marked as Ex.P8, to sell one apartment unit to a prospective purchaser who has offered a fair and reasonable price. The sale proceeds are intended to be utilised for completing the construction of the remaining four units. These units, upon completion, are proposed to be let out, and the rental income generated therefrom is to be applied towards the performance of the trust's religious and charitable



obligations.

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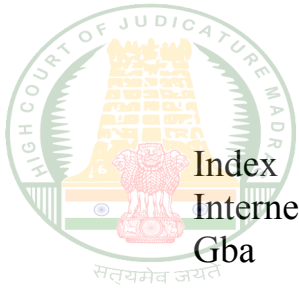


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11) From the above observation, this Court is satisfied that the proposed sale is not motivated by any personal gain, but rather is a prudent and necessary measure to protect and enhance the trust property and to further its core objectives. The decision to sell only one of the five units and retain the remaining four demonstrates a balanced approach, preserving the long-term income-generating capacity of the trust.

12) Accordingly, this Court finds no legal or factual impediment to grant the permission sought. The suit is hereby decreed as prayed for. The plaintiffs are permitted to sell one apartment unit from the newly constructed building situated in the suit schedule property, along with its proportionate undivided share of land, to the proposed purchaser. The sale proceeds shall be exclusively utilised for completing the construction of the remaining four apartment units. The plaintiffs are further directed to comply with the terms and spirit of the Trust Deed and maintain transparent records in the execution of the sale and application of proceeds. There shall be no order as to costs.

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Index : Yes / No
Internet : Yes / No
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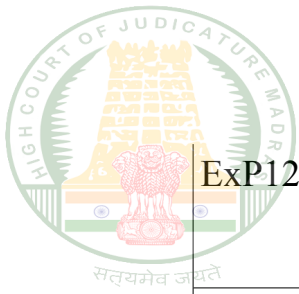
List of witnesses examined on the side of the plaintiff:

PW1- Mr.N.T.Balasubramanyan(PW1)

PW2-Nimbaram

List of documents marked on the side of the plaintiff:

Exp1	The certified copy of the registered sale deed registered as Doc.No.151/1943 along with clean typed copy	05.02.1943
Exp2	The certified copy of the registered trust deed registered as Doc.No.1691/1945 along with clean copy	01.10.1945
Exp3	The certified copy of the orders passed by the XIII Small Causes in RCOP No.1744/2016	02.03.2017
Exp4	The certified copy of the orders passed by the XIII Small Causes in RCOP No.1745/2016	07.07.2017
Exp5	The certified copy of the orders passed by the XII Small Causes in RCOP No.1737, 1738, 1740/2016	24.08.2017
Exp6	The photocopy of the new building approved plan of plaintiffs trust property.	
Exp7	The original minutes of the meeting of the plaintiffs trust dated 17.03.2022 along with amended trust deed	30.04.2008
Exp8	The certified copy of the amended plaintiffs trust deed empowering the trustees to sell a portion of trust property	05.04.2022
Exp9	The photocopy of the present photographs of the trust building.	
Exp10	The original valuation report of building and guide line value of the land	12.02.2023
Exp11	The photocopy of the photographs showing the trust property in a dilapidated condition	



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Exp12	The photocopy of the Aadhar of Nimbaram (Original is produced, compared and returned to the plaintiff's counsel)	
Exp13	The photocopy of the PAN card of Nimbaram. ((Original is produced, compared and returned to the plaintiff's counsel)	

List of witnesses examined on the side of the defendants:

Nil

List of documents marked on the side of the defendants:

Nil

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K.KUMARESH BABU.J.,

Gba

Pre-delivery Order in
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