BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25638 of 2025

1.Chairman Chinnapandian Charitable Trust,
Represented by its Chairman-Cum-Managing Trustee,
M.Puthiya Baskar.

2.S.R.Bankers,
Represented by its Proprietor,
S.Petchimuthu. ... Petitioners

Vs.

1.The Joint-II Sub-Registrar,
Tenkasi.

2.P.Murugesan

3.P.Selvaraj

4.M.Mariappan

5.M.Packiyalakshmi

6.S.Muthulakshmi ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 1st respondent in Refusal Check slip in RFL/Joint II Sub- Registrar, Tenkasi/121/2025 dated 06-08-2025 and quash the same and consequently direct the 1st respondent to register the document and release the same to the 2nd petitioner within the time fixed by this Court.

For Petitioners : Mr.H.Arumugam

For Respondents : Mr.S.Shanmugavel,
Addl. Government Pleader for R1.
Mr.D.Nallathambi for R2 to R6

ORDER

Heard both sides.

2.The memorandum of deposit of title deeds dated 06.08.2025 was executed by the first petitioner in favour of the second petitioner herein. It was presented for registration. The registering authority declined to register the document on the sole ground that since objections have been received, there is no material to come to the conclusion that Thiru.Puthiya Baskar is the managing trustee of the executant / trust. Challenging the same, this writ petition has been filed.

3.It is seen that the objectors had earlier filed O.S.No.98 of 2007 on the file of the Additional Sub Court, Tenkasi. The prayer in the suit was to remove Puthiya Baskar from the post of Managing Trustee of the subject trust. The suit came to be dismissed for default. To restore the same, IAs were filed. I.A.No.2 of 2024 was filed for condoning the delay in seeking restoration. The said IA was dismissed on 10.02.2025. Subsequently, suits have also been filed. From the suit prayers, one can easily come to the conclusion that the objectors do not really assail the status of Puthiya Baskar. They only want Puthiya Baskar to be unseated.

4.When the objectors themselves in their suits have conceded the status of Puthiya Baskar as that of the Managing Trustee, I fail to understand from where the registering authority got his inspiration that there is no material that Puthiya Baskar is the Managing Trustee.

5.The learned counsel for the writ petitioners draws my attention to the relevant clauses in the trust deed. The trust was originally founded in January, 1985. The second supplemental deed was executed on

25.03.1997. The author of the trust was very much alive then. Clause 20 of the said supplemental deed reads as follows:-

> *"The chairman of the trust is empowered to borrow money on behalf of the trust with interest or free of interest from private individuals, Banks institution etc. and also empowered to mortgage the properties of the trust for the purpose of promoting trust activities. The activities of the trust shall be carried out only in Indian territory."*

6.My attention is also drawn to the decision of the Constitution Bench of the Hon'ble Supreme Court reported in ***AIR 1966 SC 878 (Chairman Madappa Vs. M.N.Mahanthadevaru and Others)***. Paragraph Nos.10 and 11 of the said judgment read as follows:-

> *"10.Let us now see if there is anything in Section 92(1) Cl.(f) which prohibits the giving of such directions even if there is a provision, to that effect in the scheme. Section 92(1) provides for two class. of cases, namely, (i) where there is a breach of trust in a trust created for public purposes of a charitable or religious nature, and (ii) where the direction of the court is deemed necessary for the administration of any such trust. The main purpose of s. 92(1) is, to give protection to public trusts of a charitable or religious nature from being subjected to harassment by suits being filed against*

them. That is why it provides that suits under that section can only be filed either by the Advocate General, or two or more persons having an interest in-the trust with the consent in writing of the Advocate General. The object clearly is that before the Advocate General files a suit or gives his consent for filing a suit under Section 92, he would satisfy himself that there is a prima facie case' either of breach of trust or of the necessity for obtaining directions of the court. The reliefs to be sought in a suit under Section 92(1) are indicated in that section and include removal of any trustee, appointment of a new trustee, vesting of any property in a trustee,. directing a removed trustee or person who has ceased to be a trustee to deliver possession of trust property in his possession to the person entitled to the possession of such property, directing accounts and enquiries, declaring what proportion of the trust property or of the interest therein shall be allocated to any particular object of the trust, authorisation of the whole or any part of the trust-property to be let, sold, mortgaged or exchanged, or settlement of a scheme. The nature of these reliefs will show that a suit under Section 92 be filed when there is a breach of trust or when the administration of the trust generally requires improvement. One of the reliefs which can be sought in such a suit is to obtain the authority of the court for letting, selling, mortgaging or exchanging the whole or any part of the property of the trust, as provided in cl. (f) of the reliefs.

11.We are however of opinion that prayer for such a relief though permissible in a suit under Section 92 does not in any way *circumscribe or take away from trustees or managers of public trusts the right of ordinary administration of trust- property which would include letting, selling, mortgaging or exchanging such property for the benefit of the trust. We cannot infer from the presence of such a relief being provided in a suit under Section 92 that the right of trustees or managers of the trust to carry on the ordinary administration of trust-property is in any way affected thereby. If this were so, it would make administration of trust property by trustees or managers next to impossible. This will be clear from a few examples which we may give. Suppose there is a lot of odds -and ends accumulated and the trustees or managers of a public trust want to dispose of those odds and ends if they are of no use to the trust. If the interpretation suggested on behalf of the appellant is accepted, the trustees or managers could not sell even such odds and end's without filing a suit for authorising them to sell such movable property. Obviously this could not have been the intention behind cl. (f) in Section 92(1). Take another case where the public trust has a good deal of land and arranges to cultivate 'it itself and gets crops every half year. If the produce is not all required for the trust and has to be sold, the presence of cl. (f) in Section 92(1) does not require that every half year a suit should be filed by trustees or managers with the permission of the Advocate General to sell such crop. The absurdity of the argument on behalf of the appellant based on cl. (f) of Section 92(1) is therefore obvious and that clause does not in our opinion have the effect of circumscribing the powers of trustees or managers to carry on ordinary administration of trust property and to deal with it in such* *manner as they think best for the benefit of the trust and if necessary even to let, sell, mortgage or exchange it. It seems that cl. (f) was put in inter alia to give power to court to permit lease, sale, mortgage or exchange of property where, for example there may be a prohibition in this regard in the trust deed relating to a Public trust. There may be other situations where it may be necessary to alienate trust property which might require court's sanction and that is why there is such a provision in cl. (f) in Section 92(1). But that clause in our opinion was not meant to limit in any way' the Power of trustees or managers to manage the trust-property to the. best advantage of the trust and in its interest, and if necessary, even to let, sell, mortgage or exchange such property. Further if cl. (f) cannot be read to limit the powers of trustees or managers to manage the trust-property in the interest of the trust and to deal with it in such manner as would be to the best advantage of the trust, there can be no bar to a provision being made in a scheme for directions by the court in that behalf. If anything, such a provision would be in the interest of ;he trust, for the court would not give directions to let, sell, mortgage or exchange the trust property or any part thereof unless it was clearly in the interest of the trust. Such a, direction can certainly be sought by the trustees or managers or even by one manager out of two if they cannot agree, and there is nothing in cl.(f) in our opinion which militates against the provision in the scheme for obtaining such direction. We may add that we say nothing about obtaining of such directions by persons other than managers or trustees, for this is not a case where the direction was sought by a person other than* *a co-manager. Whether such a direction can be sought by persons other than trustees or managers or one of two managers as provided in paras (11) and (12) of the scheme is a matter which does not arise for consideration in the present case and we express no opinion thereon. We are dealing with a case where the prayer is made by one trustee and the order passed thereon relates to matters which are incidental to acts of management of the trust-property and we have no doubt that cl. (f) in Section 92(1) cannot be read in such a way as to hamper the ordinary administration of trust properties by trustees or managers thereof; and if that is so, there can be no invalidity in a provision in the scheme which directs the trustees or managers or, even one out of two co-managers when they cannot agree to obtain directions of the court with respect to the disposal or alienation of the property belonging to the trust. We are therefore of opinion that cl. (f) does not apply to the circumstances of this case and no suit under Section 92 was necessary in consequence. The Additional District Judge had jurisdiction to give directions which he did under paras (11) and (12) of the scheme, as these directions are of the nature of ordinary administration of trust-property and do not fall within cl. (f) in Section 92(1) of the Code of Civil Procedure."*

7.From the foregoing, one can easily come to the conclusion that if the trust deed empowers the trustee / trustees to deal with the property, it is not necessary for the trust to go before the jurisdictional Civil Court under Section 92 of the Civil Procedure Code for getting leave to deal with the trust property. In the case on hand, I am satisfied that the trust deed empowers the managing trustee to deal with the property.

8.It is also seen that the Managing Trustee had earlier mortgaged 18 acres of trust property to avail loan to the tune of Rs.3.50 Crores. The memorandum of deposit of title deed was registered as Document No.923/2017 on the file of the first respondent. The discharge certificate was also registered as Document No.421/2024 on 02.02.2024.

9.The objectors are at loggerheads with the first petitioner since 2007. For 18 years, Puthiya Baskar has been at the helm of affairs of the trust. The objectors have not obtained any restraint order from the jurisdictional Civil Court.

10.In view of the foregoing reasons, I quash the impugned refusal check slip. The parties are at liberty to re-present the document. It shall be registered and released subject to fulfilment of other usual formalities. I make it clear that the outcome of this writ petition will not in any way affect the rights of the private respondents to pursue their common law remedy. The writ petition is allowed. No costs.

11.11.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:

The Joint-II Sub-Registrar,
Tenkasi.

G.R.SWAMINATHAN, J.

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(2/3)