2025:DHC:6649

$~61

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 31st July, 2025*

\+ CS(OS) 250/2025 with I.A. 10109/2025

TIRATH RAM SATYA DEVI CHARITABLE TRUST THROUGH ITS TRUSTEE MR. ROHIT KHATTAR .....Plaintiff

Through: Ms. Avsi Malik, Advocate.

versus

STATE OF NCT OF DELHI .....Defendant

Through: Mr. Abhinav Singh and Mr. Rishabh Yadav, Advocates for SDM, Model Town.
Ms. Vibha Mahajan Seth, Senior Advocate, *Amicus Curiae*

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present suit has been filed by Mr. Rohit Khattar, trustee of Tirath Ram Satya Devi Charitable Trust under Section 7 of the Charitable and Religious Trust Act, 1920 (hereinafter the 'Act of 1920') *read with* Section 34 the Indian Trust Act, 1882 (hereinafter the 'Act of 1882'), seeking permission of this Court to sell the immovable property owned by the plaintiff trust for or on behalf of the trust.

2. Summons in the present suit were issued *vide* order 28th May, 2025 and were accepted by the counsel appearing on behalf of the Government of the National Capital Territory of Delhi (GNCTD), the only defendant in the

suit.

3. *Vide* the order dated 28th May, 2025 the Predecessor Bench had appointed Ms. Vibha Mahajan Seth, senior advocate as an *amicus curiae* in the present matter to assist the Court since there were no contesting defendants in the present suit.

4. Ms. Seth, *amicus curiae*, has placed before this Court the judgments in ***R. Venugopala Naidu and Ors.* v. *Venkatarayulu Naidu Charities and Ors.*** AIR 1990 SC 444 and ***Cyrus Rustom Patel* v. *Charity Commissioner, Maharashtra State and Ors.***, (2018) 14 SCC 761, wherein the Supreme Court has permitted the sale of a Trust property on the basis of private negotiations in exceptional circumstances.

5. Counsel for the plaintiff places reliance on the judgment in ***Vishwanath and Santosh Bakshi Charitable and Educational Trust* v. *GNCTD*** 2019:DHC:3210, wherein a Co-ordinate Bench of this Court has laid down the principles to be adopted by the Court in a petition filed under Section 7 of the Act of 1920. The relevant paragraphs of the aforesaid judgment are extracted below: -

> *"22. I will next consider the procedure to be adopted by a Court, in a petition under Section 7(2) of the CRT Act.*
>
> *23. **One of the questions which arises under this head, is the persons required to be impleaded as respondents to such a petition.** The plaintiffs herein have not impleaded anyone as respondent and have sought ex parte opinion, advice and directions from this Court. It is the case in the plaint that the plaintiff no.2 is the sole trustee; since in terms of the Trust Deed sale has to be in consultation with Harsh Gogia, Baldev Gogia, Madhuri Yadav, Ajay Yadav, Payal Malik and Sudhir Shah, the plaintiffs along with the plaint have filed affidavits of no objection of the said persons.*
>
> *24. **In my view, the State within whose jurisdiction the subject matter***

of the trust is situate, is necessarily required to be impleaded as a respondent in such a petition. This is so because the Court has a very limited execution machinery of its own and for any investigation to be done, requires the assistance of the State. Considering the nature of the advice, opinion and/or direction sought in this petition also, the Court requires the State to carry out the valuation and has no means of its own to value the property. The State, even otherwise has a considerable interest in a public charity of a religious or charitable nature and exercises control and supervision over the citizens / persons who are beneficiaries of the public charity and is an essential party.

25. Besides the State, depending upon the facts pertaining to each public charity, respondents may be impleaded or directed by the Court to be impleaded. ***If there are more than one trustee and the petition has been presented by only one of the trustees, the other trustees may be required to be impleaded as respondents.*** *Similarly, if the Court is of the view that for rendering the opinion, advice and/or direction sought, it is essential to hear any person other than the applicant / petitioner and / or that such other person may be interested in or concerned with the management or administration of the trust, such person should be impleaded and / or may be directed to be impleaded as the respondent. The Court, in the matter of rendering such opinion, advice or direction, is acting for the better management and administration of the trust property and ought to exercise all caution, by hearing all persons who may have an interest, for the sake of best management and administration of the trust property.*

26. ***As far as other procedural aspects of such a petition / proceeding under Section 7 are concerned, the CRT Act gives complete freedom to the Court to modulate the procedure. The Court thus has freedom to devise the procedure as may be the requirement considering the nature of the opinion, advice or direction sought and no hard and fast rule can be laid down.*** *In this judgment, the Court is to only grant the permission sought to sell the property on „as is where is basis" at a price slightly below the prevailing market value of the property as per the circle rate; this will require determination by the Court of the prevalent market price and for which purpose, the Court, besides seeking the opinion of the concerned State authority, would also be required to ensure that the sale is conducted in a manner best suited to fetch the best price available and* *ensure that the price received is applied in the manner provided in the Trust Deed.* ***This purpose can be subserved by seeking valuation of the property in modes as may be found expedient and by directing wide publication of the sale, to fetch the best price, and ensuring that the price received is utilized for the purpose of the Trust.***"

[Emphasis supplied]

6. Counsel for the plaintiff further submits that in the present case, initially only one of the trustees were impleaded, however pursuant to the order dated 14th July, 2025, the plaintiff has filed an amended memo of parties impleading both the trustees of the plaintiff trust, i.e. Mr. Rohit Khattar and Mrs. Vijay Lakshmi Khattar.

7. The plaintiff trust had purchased an immovable property being 61.5% undivided share of a portion of the Ground Floor, having carpet area measuring 1626 sq. ft. along with proportionate undivided, indivisible and impartible ownership rights in a plot of land measuring 488-88/100 sq. yds. bearing *No.H-5, situated at Model Town Phase-III, Delhi* (hereinafter 'Suit Property') *vide* Sale Deed dated 29th October, 2004.

8. The relevant, i.e. Clause 17 of the Trust Deed dated 1st February, 1991 which permits the sale of trust properties is set out below: -

> *"17. The Board of Trustees shall have the power to acquire immovable or movable properties for the Trust and likewise the power to sell, lease or mortgage or otherwise deal with such properties."*

9. It has been stated that the Suit Property was let out earlier to ICICI Bank, which vacated the same on 16th March, 2022. It is stated that since the said day, the Suit Property has been lying vacant and the plaintiff trust has not been able to lease out the same. The plaintiff trust has to incur regular expenses for the repair and maintenance of the Suit Property and hence, the

Suit Property has become a liability for the plaintiff trust.

10. In light of the above, the Board of Trustees passed a unanimous resolution dated 1st March, 2025 to sell the Suit Property and to use the sale proceeds for the purposes of carrying out the processes of the plaintiff trust. The Board Resolution dated 1st March, 2025 has been placed on record.

11. It is further stated that the plaintiff trust has identified a buyer who is willing to purchase the Suit Property on an as-is, where-is basis for a sale price of Rs. 3,53,62,500/-.

12. The plaintiff has also filed a valuation report dated 19th March, 2025 from a government-approved valuer, in terms of which the value of the Suit Property is Rs. 1,30,54,308/-.

13. *Vide* the order dated 28th May, 2025 the Predecessor Bench had directed that a valuation report from the concerned Sub-Divisional Magistrate (SDM), i.e. SDM, Model Town of the Suit Property shall be placed on record.

14. A valuation report dated 24th June, 2025 has been placed on record on behalf of the SDM, Model Town, in terms of which, the total value of the Suit Property as per the circle rates is Rs. 1,30,68,360/-.

15. The valuation given by the petitioner is more or less in line with the valuation given by the SDM, Model Town.

16. The sale price received by the plaintiff trust for the Suit Property, i.e. Rs. 3,53,62,500/-, is almost two and a half times the price given by the SDM, Model Town.

17. Pursuant to the directions given in paragraph 9 of the order passed by the predecessor Bench on 14th July, 2025, the plaintiff has carried out the

necessary publications in newspapers, copies of which have been placed on record. An affidavit dated 28th July, 2025 has been filed on behalf of the plaintiffs stating that no objections have been received in respect of the sale of the suit property after the said publications.

18. In view of the above, the Court is satisfied that the requirements in terms of Section 7 of the Act of 1920, as clarified in ***Vishwanath and Santosh Bakshi Charitable and Educational Trust* v. *GNCTD*** (supra), for the sale of the suit property have been met.

19. Accordingly, permission is granted to the plaintiff trust to sell the suit property at the sale price of Rs. 3,53,62,500/-.

20. After the sale is carried out, the plaintiff trust shall file an affidavit stating that the proceeds of the sale have been duly received by the plaintiff trust and the same shall be utilised for the purposes of the plaintiff trust. The plaintiff trust would be bound by the same.

21. The Court records its appreciation for the assistance offered by the *amicus curiae*, Ms. Vibha Mahajan Seth, senior advocate.

AMIT BANSAL, J.

JULY 31, 2025

Vivek/-