(2014) 12 MAD CK 0197

In the Madras High Court

Case No : C.R.P. (MD)(PD). Nos. 875 to 877 of 2012 and M.P. (MD) Nos. 2, 2 and 3 of 2012

The Idol of Sri. Renganathaswamy — APPELLANT

Vs

M. Pandian — RESPONDENT

Date of Decision : 01-12-2014

Acts Referred:

Tamil Nadu Hindu Religious and Charitable Endowments (Amendment) Act, 1951 — Section 6(13)
Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 — Section 34, 6(17)
Trusts Act, 1882 — Section 1, 34

Citation : (2014) 12 MAD CK 0197

Hon'ble Judges : M. Duraiswamy, J

Bench : Single Bench

Judgement

M. Duraiswamy, J.—C.R.P.(MD) No. 875 of 2012 arises against the order passed in Tr. O.P. No. 1 of 2009 on the file of the District Court, Trichirappalli. Tr. O.P. No. 1 of 2009 was filed by the first respondent under Section 34 of the Indian Trusts Act seeking permission to sell the trust property to the tenant, T. Marimuthu, the second respondent herein and to invest the sale proceeds into Court deposit in the name of Sri. Thiruvenkadam Chettiar Charities.

2. C.R.P.(MD) No. 876 of 2012 arises against the fair and final order passed in I.A. No. 1947 of 2009 in Tr. O.P. No. 1 of 2009. The revision petitioner filed I.A. No. 1947 of 2009 to revoke the permission granted on 13.04.2009 in Tr. O.P. No. 1 of 2009.

3. C.R.P.(MD) No. 877 of 2012 arises against the fair and final order passed in I.A. No. 1948 of 2009 in Tr. O.P. No. 1 of 2009. The revision petitioner filed I.A. No. 1948 of 2009 to revoke the permission granted on 13.04.2009 in Tr. O.P. No. 01 of 2009.

4. Heard the learned Counsel for the petitioners and the learned Counsel for the respondents.

5. According to the first respondent, one Chellathammal as guardian of Angammal, legal heir of Thiruvenkadam Chettiar in order to fulfill the pious wishes of Late Thiruvenkadam Chettiar executed a registered Darmaparipalanam agreement on 07.05.1887. In the said registered document, the executant prescribed charity to be performed by the trustees and further provided cash for the performance of the charities. Further the executant authorised the trustees to purchase immovable property and from the income, the charitable expenses should be meted out. For the fulfillment of the charitable performance, four trustees nominated by Chellathammal purchased 46 cents Punja lands in S.F. No. 1994 of Veereswaram Village, Srirangam Taluk on 03.11.1894. Two of the trustees appointed by Chellathammal executed released deed and one of the trustees by name Krishanapattar had died. The remaining trustees by name Nagalingam Chettiar and Govindan Chettiar had no legal heirs. The only trustee by name Irulandi Chettiar died leaving his son Maruthai Chettiar. The said Maruthai Chettiar died leaving his son one Muthusamy Chettiar. The first respondent is the only legal heir of Late Muthusamy Chettiar and the only surviving trustee of Sri. Thiruvengadam Chettiar Charities.

6. In the year 1969, one Thangaiyan entered into lease agreement with Muthusamy Chettiar with regard to the charity property. Since then, he was in possession of the property. After the demise of Thangaiyan, his son one Marimuthu is in possession of the property. The agreed annual lease was Rs. 750/-. According to the first respondent, the costs of expenditure for performing the charities and celebrating the festival, the income was not sufficient from the property. The tenant was also not willing to pay any enhanced lease amount. However, he was ready to purchase the property considering the market value. He consented to purchase the property for a sum of Rs. 23 Lakhs. Further the first respondent has stated that if the amount is invested in any Nationalised Bank, the interest due there from can be utilised for the charities. In these circumstances, the first respondent filed an application to permit him to sell the property to the second respondent.

7. By order dated 13.04.2009, the Principal District Court, Trichirapalli allowed the petition and permitted the first respondent to sell the property in public auction, after giving wide publication in a prominent tamil daily by fixing the upset price for the property at Rs. 25 lakhs and directed the sale proceeds to be deposited in any one of the Nationalised Bank and further directed that the first respondent shall withdraw the accrued interest for the performance of the charities and poojas. Further, the District Court made it clear that the first respondent should not withdraw the amount without getting permission from the Court.

8. Thereafter on 20.07.2009, the revision petitioners filed objections in Tr. O.P. wherein they have stated that the first respondent should have taken steps to evict the tenant instead of selling the property. Further they have stated that the Idol of Sri. Renganathaswamy alone is the real beneficiary under the

Dharmaparibalanam deed. Further they have stated that since the charity is a public religious charity, the provisions of Indian Trusts Act will not applicable to the petition mentioned charity. Further they have stated that any lease or sale of a Trust property can be made only with the prior approval from the Commissioner, H.R. & C.E. under Section 34 of Tamil Nadu Act 22 of 1959. In these circumstances, the revision petitioners sought for dismissal of Tr. O.P. No. 1 of 2009.

9. It is pertinent to note that the objection filed by the revision petitioners were subsequent to the order passed in Tr. O.P. No. 1 of 2009 i.e., the order was passed on 13.04.2009 whereas the objections were filed on 20.07.2009. Therefore, the District Court had no occasion to consider the objections filed by the revision petitioners at the time of deciding Tr. O.P.

10. The revision petitioner in C.R.P.(MD) No. 876 of 2012 filed an application in I.A. No. 1947 of 2009 to revoke the permission granted in Tr. O.P. No. 1 of 2009 on 13.04.2009 for alienating the property. Similarly the revision petitioner C.R.P.(MD) No. 877 of 2012 filed an application in I.A. No. 1948 of 2009 praying for similar relief. In the applications filed in I.A. Nos. 1947 and 1948 of 2009, the petitioners have stated that the Idol of Sri. Kailasanathaswamy and the Idol of Sri. Renganathaswamy are public religious institutions coming within the purview of the Tamil Nadu Act 22 of 1959. The festival and charity performance are connected and associated with the respective temples. Hence they are religious endowment under Section 6(17) of the Tamil Nadu Act 22 of 1959.

11. Further the petitioners contended that the properties are dedicated absolutely for the performance of the religious endowment. The Idol of Sri. Renganathaswamy and the Idol of Sri. Kailasanathaswamy are the beneficiaries under the Dharmaparibalanam deed. Therefore, any application for sale or alienation of the property can be made before the Commissioner H.R. & C.E. under Section 34 of the Tamil Act 22 of 1959. Any alienation without the approval of the Commissioner will be void and non-est. Since the charities are connected with religious endowment, the provisions of Indian Trusts Act will not apply. In the applications filed by the first respondent, without impleading the respective Idols, he had obtained permission from the District Court for alienating the property. The insufficiency of income to meet the expenses for the purpose of charity is not a ground for granting permission for alienating the property. The sale is not beneficial to the Trust. In these circumstances, the petitioners sought to revoke the permission granted by the District Court.

12. In the counter affidavit filed by the first respondent, he has stated that the executant of Dharmaparipala udanpadikkai deed appointed trustees to fulfill the object of the deceased Thiruvengadam Chettiar. At the inception in the year 1887, no property was involved in the trust and the purchase of the property was made from the total fund of Rs. 2,100/- available at the hands of the trustees. In the deed, there was a direction for purchasing the property. As per the deed dated 07.05.1887, there is no direction for the vesting of the property to the

Idol. Specific direction was made for meeting out the expenditure from the income of the property going to be purchased. Further the nomenclature of the document dated 07.05.1887 is Dharmaparipalana Udanpadikkai and not a deed of Trust. The document is purely an agreement between the legal heirs of Late Sri. Venkatarengan Chettiar and the then named trustees. The deed never contemplated any benefit to the general public and there is no recital in the deed about the benefit of the general public and also public worshipers. The deed is not a trust deed, in strict sense and it is only a Varthamanam for Dharmaparipalanam.

13. Pursuant to the deed dated 07.05.1887, the property was purchased on 03.11.1894 in the name of the trustees. The property was not purchased in the name of Idol. The property which is the subject matter in the Tr. O.P. is not a dedication to the Idol or religious institution and the beneficiaries have got only a charge for the insistence of the named charities. The corpus of the property remain only in the trustees and not in the hands of the temples represented by the revision petitioners. The beneficiaries once not vested with the corpus can only enforce the beneficial right claiming charge and not otherwise. Therefore, Section 34 of the Tamil Nadu Act 22 of 1959 has no application. The temple authorities have no say in the matter since the property is not vested or dedicated to the temple.

14. The Tr. O.P. was filed on 15.10.2008 and the first hearing was fixed on 30.01.2009. The publication was also ordered by the District Court. Though the first respondent sought for a prayer to sell the property to the tenant, T. Marimuthu for a consideration of Rs. 23 Lakhs, the District Court has not granted permission for out right sale, but fixed the upset price of Rs. 25 lakhs and ordered for public sale. For the sale of the property by Court auction, publication was already made. The sale was conducted on 10.06.2009, pursuant to the settlement of proclamation and paper publication. The second respondent was a successful bidder for a sum of Rs. 25,20,000/- and the second respondent paid 25% of the bid amount on the date of auction and remaining 75% on 07.07.2009. The first respondent also executed the sale deed in favour of the purchaser on 20.07.2009. The revision petitioner filed the present applications and also objections to the Tr. O.P. after the conclusion of the sale of the property. Since the sale deed has been executed in favour of the Court purchaser, the auction purchaser is a necessary party. However, the revision petitioners have not impleaded the auction purchaser as a party in the applications. In these circumstances, the first respondent prayed for dismissal of the applications.

15. Mr. S. Parthasarathy, learned Senior Counsel appearing for the revision petitioners submitted that the Tr. O.P. filed by the first respondent itself is not maintainable for the reason that the property is a religious charitable endowment attached to the petitioners'' temples and that the Tamil Nadu Hindu Religious and Charitable Endowment Act 22 of 1959 shall have application and not the Indian Trusts Act. Further the learned Senior Counsel submitted that the power is only

vested with the statutory Authority under the Hindu Religious and Charitable Endowment Act and not with the District Court under the Indian Trusts Act. In support of his contentions, the learned Senior Counsel relied upon the following judgments:

(i) In The Deputy Commissioner, H.R. and C.E. Department Vs. S. Rama Iyengar and Another, , wherein this Court held as follows:

"The facts of the case show that the trust is a religious trust and it is exempted from the provisions of the Indian Trusts Act. Even it is a private religious trust, it will be outside the scope of the Indian Trusts Act. Hence, Sec. 34 of the Indian Trusts Act cannot be revoked by the respondents."

(ii) In S. Subramanian Vs. Commissioner, Hindu Religious and Charitable Endowments Board, . In this judgment, this Court held that when the lease by deed intended to set apart the property to be used only for the purpose of feeding the poor and paradesis and no person is given right to encumber or alienate the property. The deed should be construed as religious endowment and the Authorities under the Act will have jurisdiction to supervise the property and also to ask for contribution.

(iii) In Commissioner, Madras Hindu Religious and Charitable Endowments Vs. Narayana Ayyangar and Others, , wherein the Honourable Supreme Court held that where the primary purpose of the charity is to feed Brahmin pilgrims attending the Rathothsavam in the local shrine, the public charity has a real connection with the Rathothsavam which is a Hindu festival of a religious character and therefore it is a religious charity within the meaning of Section 6(13) of Madras Hindu Religious and Charitable Endowments Act XIX of 1951; it was not suggested that the fund is not a religious charity by reason of the utilisation of the surplus fund in Vanabhojanam in the month of Karthigai and on the day following Vaikunta Ekadasi and therefore, the Honourable Apex Court held that the Endowments Commissioner has jurisdiction to bring the fund under his control.

(iv) In The Idol of Arulmighu Thayumanaswami Vs. K. Arumugham and 3 ors wherein this Court held that when the testator had endowed the trust properties for performance of certain specific deeds in connection with the petitioner, any alienation of the said properties is definitely a matter that would interest the petitioner temple. Therefore, the petitioner cannot be denied the right to object to the sale of endowed properties on the ground that it is not beneficial to the trust.

(v) In Kalia Pillai (died) and Others Vs. Kathayee ammal Dharmam (Charities) and Others, wherein the Division Bench of this Court held that the HRCE Act applies to all Hindu public religious endowments including the incorporated Dewaswoms and Unincorporated Devaswoms. The HRCE Act has been enacted, inter alia, for the proper administration and governance of Hindu Religious and Charitable Endowments in the State of Tamil Nadu."

(vi) In A.A. Gopalakrishnan Vs. Cochin Devaswom Board and Others, . The Honourable Apex Court in this judgment held that the HRCE Act is meant for protecting the temple properties from misappropriation and it is the duty of the devotees, trustees and the Government to prevent any such usurpation or encroachment. The Court is also a duty bound to protect and safeguard the properties of the religious and charitable institutions from wrongful claims or misappropriation.

(vii) In Joint Commnissioner, Hindu Religious and Charitable Endowments, Administration Department Vs. Jayaraman and Others, , wherein the Honourable Apex Court held that even if, the income therefrom had alone been dedicated to the temples, it would still be a religious trust or endowment and certainly not a private trust to which the Indian Trusts Act would apply.

16. Countering the submissions made by the learned Senior Counsel for the petitioners, Mr. K. Srinivasan, learned Senior Counsel appearing for the respondents submitted that the Trust is a private trust and even the nomenclature of the document would only reveal that it is Dharmaparipalanam agreement and that the immovable property was not dedicated to the Idol. Further the learned Senior Counsel submitted that the trustees were asked to purchase the immovable property in their names and out of the income derived from the said property, they were asked to perform the festival and poojas. Therefore, the learned Senior Counsel submitted that since the trust is a private trust, the Indian Trusts Act only has application. Further the learned Senior Counsel submitted that the property was sold to the second respondent as per the orders of the District Court, Trichirappalli in a public action, after proclamation and wide publicity and therefore, no motive can be attributed for selling the property.

17. The learned Senior Counsel appearing for the respondents in support of his contention relied upon the following judgments:

(i) In the State of Madras, represented by the The State of Madras Vs. Thuthukudi Kozhumbu Vyaperikalin Thuthukudi Sri Subramaniaswami Mahimi Paripalana Sangam , wherein the Division Bench of this Court held that in order to constitute a valid endowment, it is necessary that the donor should divest himself of the property. What is essential is that there should be an unambiguous expression of an intention to divest and an actual divestment for the benefit of the beneficiary, for example the temple or the particular purpose specified. Such divestiture can be proved by a written document. But as dedication to God or to a charity is not a transaction inter partes the provisions of the Transfer of Property Act will not apply and dedication can be effectuated orally without any necessity for a written instrument. So also a trust for a public purpose. In either case, that is, making of an endowment or creating a public trust, the fact of dedication can be established by evidence. Such evidence may consist of contemporaneous statements or merely of subsequent conduct of the trustee. In either case there should be a clear and cogent evidence to show that there was an intention to dedicate the property for the particular purpose followed by an actual divestment or appropriation of the property to the specific object.

(ii) In Menakuru Dasaratharami Reddi Vs. Duddukuru Subba Rao, , wherein the Honourable Apex Court held that if the income of the property is substantially intended to be used for the purpose of the charity and only an insignificant and minor portion of it is allowed to be used for the maintenance of the worshipper or the manager, it may be possible to take the view that dedication is complete. If on the other hand for the maintenance of public charity minor portion of the income is expected or required to be used and a substantial surplus is left in the hands of the manager or worshipper for his own private purposes, it would be difficult to accept the theory of complete dedication. Further the Honourable Apex Court held that is naturally difficult to lay down general rule for the solution of the problem. Each case must be considered on its facts and the intention of the parties must be determined on reading the document as a whole."

18. It is not in dispute that one Chellathammal in her capacity as guardian of one Angammal who is the legal heir of Thiruvengadam Chettiar, executed a registered Dharmaparipalanam agreement on 07.05.1887, so as to fulfill the pious wishes of Late. Thiruvengadam Chettiar. The executant prescribed charities to be performed by the trustees and provided a sum of Rs. 2100/- for the purchase of a immovable property and to utilise the income derived from the said immovable property to meet out the charitable expenses. The Chellathammal nominated Nagalingam Chettiar, Govindan Chettiar, Irulandi Chettiar and Krishnapattar. The trustees purchased an extent of 46 cents of punja land in S. No. 1994 of Veereswaram village, Srirengam Taluk on 03.11.1884. By utilising the income derived from the coconut trees and other fruit bearing trees in the properties, such as Thirukatchinambi Alvar Thirunatshathram at Srirengam, Kailasanatharswami pooja Naivethiyam at Big Bazaar, Trichirappalli were performed. One of the trustees by name Krishnapattar had died. However his sons were not interested to be the trustees and they have executed a registered sale deed on 26.03.1914. The other trustees Nagalingam Chettiar and Govindan Chettiar had no legal heirs. Irulandi Chettiar died leaving his son Maruthai Chettiar. Maruthai Chettiar died leaving his son Muthusamy Chettiar and the petitioner is the only legal heir of the said Muthusamy Chettiar and also the only surviving trustee of Thiruvengadam Chettiar. The property was in the occupation of the tenants.

19. In the year 1969 one Thangaiyan and the first respondent''s father Muthusamy Chettiar entered into an agreement of lease. After the demise of Thangaiyan, the second respondent continued to be in possession of the property on an agreed annual rent of Rs. 750/-.

20. Since the income derived from the property was not sufficient to perform the charities, the first respondent filed a original petition in Tr. O.P. No. 1 of 2009 on the file of the District Court, Trichirappalli under Section 34 of the Indian Trusts Act seeking permission to sell the property to the second respondent for a sum

of Rs. 23 Lakhs. However, the District Court allowed the petition and permitted the petitioner to sell the property in public auction after the wide publication in a permanent tamil daily by fixing the upset price for the property at Rs. 25 Lakhs. Further the District Court directed the petitioner to deposit the sale proceeds in any one of the Nationalised Banks and also permitted him to withdraw the accrued interest for the purpose of charities and poojas. The petitioner was also prevented from withdrawing the sale proceeds from the deposit.

21. Pursuant to the order of the District Court and pursuant to the settlement on proclamation and paper publication, the sale was conducted on 10.06.2009 and the second respondent was declared as a highest bidder for a sum of Rs. 25,20,000/- and on that date, the second respondent paid 25% of the bid amount and remaining 75% on 07.07.2009. The sale was confirmed in his favour and the sale deed was executed in favour of the second respondent on the very same day. The petitioners temple filed objections in the Tr. O.P. and also filed I.A. Nos. 1947 and 1948 of 2009 in Tr. O.P. No. 1 of 2009 to revoke the permission granted in the original petition.

22. On a perusal of the Dharmaparipalanam agreement dated 07.05.1887, it is clear that the executant had provided money for the purchase of the immovable property for the purpose of performing the charities out of the income derived from the said property. The executant has not stated any other reason except the reason stated above for purchasing the immovable property. Therefore, it is clear that the sole object of executant was to perform charities out of the income derived from the immovable property by the trustees.

23. The learned Senior Counsel appearing for the respondents submitted that there was no dedication of the property in favour of the petitioner Idol and therefore, it will not amount to endowment and the trust created is only a private trust and therefore, the Indian Trusts Act shall have application.

24. However in the judgment reported in the Commissioner, Madras Hindu Religious and Charitable Endowments Vs. Narayana Ayyangar and Others, , wherein the Honourable Apex Court held that where the primary purpose of the charity is to feed Brahmin pilgrims attending the Rathothsavam in the local shrine, the public charity has a real connection with the Rathothsavam which is a Hindu festival of a religious character and therefore it is a religious charity within the meaning of Section 6(13) of Madras Hindu Religious and Charitable Endowments Act XIX of 1951; and therefore, the Honourable Apex Court held that the Endowments Commissioner has jurisdiction to bring the fund under his control.

25. In the case on hand, the first respondent has filed Tr. O.P. even without impleading the petitioners Idols as parties in the petition. When the executant of the document dated 07.05.1887 had executed the document for the sole purpose for performing certain charities in connection with the petitioner temples, the first respondent should have made the petitioners as parties in the Trust O.P.

This ratio has been laid down by this Court in the judgment in the The Idol of Arulmighu Thayumanaswami Vs. K. Arumugham and 3 ors .

26. As already stated, the trust was created solely for the purpose of performing charities and festivals in the petitioner temples. In the Dharmaparipalanam agreement dated 07.05.1887, no other purpose has been mentioned. That apart, no person was given any right to encumber or alienate the property. The executant intended to create the trust for the purpose of performing poojas and festival in the petitioner temples.

27. As per Section 6(17) of the Tamil Nadu Religious Endowment and Charitable Endowment Act 1959, "religious endowment" or "endowment" means all property belonging to or given or endowed for the support of maths or temples, or given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity; and includes the institution concerned and also the premises thereof, but does not include gifts of property made as personal gifts to the archaka, service holder or other employee of a religious institution. Therefore, all the property which belonged to, or was given or endowed for the support of a religious institution, or which was given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity shall be deemed to be a "religious endowment" or "endowment" within the meaning of Section 6(17) of the Act.

28. Therefore, there must be a public charity and the charity must be associated with the Hindu festival or observance of a religious character. Since the performing poojas and festival are charitable and secular, the same are connected with the petitioner temples. Therefore, the same should be construed only as religious endowment. The recitals found in the Dharmaparipalanam agreement clearly establishes that it is a religious endowment created for the purpose of performing poojas and festivals in the petitioner temples.

29. When it is clear that it is a religious endowment created under the agreement dated 07.05.1887, the provisions of Indian Trusts Act 1882 has no application. As held in the judgment in Joint Commnissioner, Hindu Religious and Charitable Endowments, Administration Department Vs. Jayaraman and Others, , even if, the income derived from the property had alone been dedicated to the temples, it would still be a religious trust or endowment and certainly not a private trust to which the Indian Trusts Act would apply. Section 1 of the Indian Trusts Act itself provides that the nothing contained therein applies to public or private religious or charitable endowments. The endowment here was certainly not a private endowment, since there is no case that the temples are private. The endowment was for a religious purpose, conduct of festival and poojas in the temples. Therefore, the endowment was of a public property for the benefit to public temples. The trustees were imposed with the obligations of spending the income for the property for conducting poojas and festivals of the petitioner temples.

30. It is clear case of a public religious endowment by virtue of Section 1 of the Act and the Indian Trusts Act would have no application. Therefore by no stretch of imagination, it was held that it was a private trust coming within the purview of the Trust Act. The District Judge has, therefore, clearly acted without jurisdiction in entertaining the application filed under Section 34 of the Indian Trusts Act. On this short ground, it is to be held that the order passed by the District Judge in the application filed under Section 34 of the Act granting permission to the first respondent to sell the property is one without jurisdiction. It is not the case of the first respondent that the temples are not public temples and are not under the control of H.R. & CE. department. The first respondent cannot by-pass of the provisions of H.R. & C.E. Act and to secure an order from the District Judge without notice to the H.R. & C.E. department by moving an application filed under Section 34 of the Indian Trusts Act. Therefore, the order thus obtained cannot bind the properties or the deities or the H.R. & C.E. department. The first respondent should have obtained permission of the Commissioner of the H.R. & C.E. under Section 34 of the H.R. & C.E. Act.

31. It is seen that there is a clear attempt by the first respondent to over-reach the deities and the authorities under the H.R. & C.E. Act while managing the properties dedicated for the purposes of the temple, properties granted and managed by them in their capacities as trustees for the maintenance of the temples. The attempt has to be deprecated. The H.R. & C.E. Act has been enacted inter alia for the proper administration and governance of Hindu religious and charitable endowment in the State of Tami Nadu. It is also the duty of the Courts to protect and safeguard the properties of the religious and charitable endowment from wrongful claims and misappropriation.

32. In these circumstances, the fair and decreetal orders passed in Tr. O.P. No. 1 of 2009 are liable to be set aside. Accordingly, the same are set aside. The Civil Revision Petition in C.R.P.(MD) No. 875 of 2012 is allowed and the Trust Original Petition in Tr. O.P. No. 1 of 2009 on the file of the Principal District Judge, Trichirappalli stands dismissed. Consequently, the permission granted for the sale was also stand set aside and the sale effected by the first respondent, pursuant to such permission will be deemed void and would confer no right on the purchaser viz., the second respondent thereunder or on anyone claiming under or through him. In view of the order passed in the Civil Revision Petition in C.R.P. (MD) No. 875 of 2012 setting aside the fair and decreetal order passed in Tr. O.P. No. 1 of 2009, consequently the fair and final orders passed in the applications filed by the petitioner temples in I.A. Nos. 1947 and 1948 of 2009 in Tr. O.P. No. 1 of 2009 are set aside and the Civil Revision Petitions in C.R.P.(MD) Nos. 876 and 877 of 2012 are also allowed. Consequently, the connected Miscellaneous Petitions are closed. However there shall be no order as to costs.

33. Since I have set aside the order passed in Tr. O.P. No. 1 of 2009, I direct the first respondent to repay the sale consideration amount of Rs. 25,20,000/-, by withdrawing the amount from the bank deposit, to the second respondent within

a period of two weeks from the date of receipt of a copy of this order.

