

OD-12

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

IA NO. GA/10/2024
IN
CS/220/1868

IN THE MATTER OF:
BISWANATH MITRA
VS
K.C. BASU

BEFORE:

The Hon'ble JUSTICE BIVAS PATTANAYAK

Date: 24th July, 2024

APPEARANCE:

Mr. Meghnath Dutta, Adv.
Mr. Arindam Paul, Adv.
Mrs. Debarati Das, Adv.
Mrs. Rudrani Saha, Adv.
Mr. Sabyasachi Sarkar, Adv.
For intervenor in GA No. 10/2024
Mr. Souvick Mitra, Adv.
Ms. Shetparna Roy, Adv.
For Saibal Deb, Tapas Bose, Debraj Mitra, trustees
Mr. Ayan Kumar Boral, Adv.(VC)
For Dilip Narayan Deb
Mr. Akash Dutta, Adv.
For purchaser

The Court : Mr. Meghnath Dutta, learned advocate for the petitioner submits that the three out of four trustees in violation of the orders passed by this Hon'ble Court alienated the debuttar estate to third party without seeking permission of this Hon'ble Court. Such violation has been made purposefully by the three trustees, namely, Mr. Tapas Bose, Mr. Saibal Narayan Deb and Mr. Debraj Mitra only to advance their individual interest

rather than the interest of the Trust. He also submits that as per the order of this Court, the period of the Board of Trustees has expired after 31st August, 2022 and, as such, it is imperative and a necessary requirement to hold immediate election for constitution of new Board of Trustees. He also submits that since the aforesaid three members of the Board of Trustees have violated the order of this Hon'ble Court, they should also be debarred from contesting the election. In the light of his aforesaid submission, he prays for interim orders for protecting the interest of the Trust.

Mr. Souvick Mitra, learned advocate appearing for Mr. Tapas Bose, Mr. Saibal Narayan Deb and Mr. Debraj Mitra, trustees of the Board of Trustees submits that similar allegations have been made in the application filed by one of the Trustees namely Mr. Dilip Narayan Deb in GA No.5 of 2022. The Hon'ble Court in the said application passed an order on 15th January, 2024 directing for submission of valuation report by the empanelled valuer of this Court. Further by order dated 4th October, 2023, the functioning of the present Board of Trustees has been extended till further orders. He further submits that out of compulsion the trustees alienated the property. He seeks to file affidavit-in-opposition.

Mr. Ayan Kumar Boral, learned advocate representing one of the trustees, namely, Mr. Dilip Narayan Deb also submits in the similar fashion that alienation of the properties without seeking a prior permission from the Court is out and out a violation of the statutory provision as well as the order of the Hon'ble Court.

Having heard the learned advocates for the respective parties, it is found that the matter needs to be heard after affidavit-in-opposition is filed. Accordingly, Mr. Tapas Bose, Mr. Saibal Narayan Deb and Mr. Debraj Mitra are directed to file affidavit-in-opposition to the application within a period of one week. Advance copy of the affidavit-in-opposition be served upon learned advocate for the petitioner; reply thereto, if any, be filed within three days thereafter.

List this matter on 6th August, 2024 along with GA/5/2022, GA/6/2022 and GA/8/2023.

Re : GA/5/2022

Learned Registrar, Original Side is directed to file a report regarding submission of report of the valuer in terms of order of this Court dated 15th January, 2024 on the returnable.

(BIVAS PATTANAYAK, J.)

Sb/