

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

**PRESENT:
THE HON'BLE JUSTICE BIVAS PATTANAYAK**

**IA No. GA/5/2022
In
CS/220/1868
BISWANATH MITRA
VERSUS
K.C. BASU**

**IA No. GA/6/2022
In
CS/220/1868
BISWANATH MITRA
VERSUS
K.C. BASU**

For Dilip Narayan Deb : Mr. Ayan Kumar Boral, Advocate
Ms. Saswati Sengupta, Advocate
Mr. Sabyasachi Bhattacharyya, Advocate

For the trustees, Tapas Bose, : Mr. Surajit Nath Mitra, Senior Advocate
Saibal Deb, Debraj Mitra : Mr. Souvick Mitra, Advocate
Ms. Shetparna Ray, Advocate
Mr. Subhajit Das, Advocate

For the purchaser : Mr. Akash Dutta, Advocate

Reserved on : 12th September, 2024

Delivered on : 3rd October, 2024

ORDER

Bivas Pattanayak, J. :-

1. GA 5 of 2022 is an application filed on behalf of one of the trustees of the board of trustees namely Dilip Narayan Deb to the estate of Raja Sir Radha Kant Deb Bahadur with the following prayers:

“a) Leave be granted to the petitioner to serve the application upon Bikram Adhikary, son of late Binoy Bhusan Adhikary residing at Raja Bagan, Post Office-Sukhchar, Police Station-Khardah, District: North 24-Parganas, Kolkata-700015.

b) Revoke the Deed of Conveyance executed on 19th March, 2021 by and between Sri Tapas Bose, Sri Saibal Narayan Deb and Debraj Mitra as transferors and Bikram Adhikary transferee registered at the office of the District Sub-registrar-I, North 24 Parganas.

c) Appoint a fit and proper person to administer the estate till the new board of trustees is formed.

d) Cost and incidentals to this application

e) Any other appropriate order or orders as this Hon’ble Court may deem fit and proper.”

2. GA 6 of 2022 is an application filed on behalf of other three trustees of the board of trustees namely Sri Tapas Bose, Sri Saibal Deb and Sri Debraj Mitra with the following prayers:

“(a) an Order that the premises situated at Premises Nos.476 & 478, Rabindra Sarani, Kolkata-700 005 (at the crossing of Rabindra Sarani And Aurobinda Sarani/Hatkholo More), commonly known as ‘Shovabazar Market’ belonging to the debottor Estate of Raja Sir Radha Kant Deb Bahadur, K.C.S.I. said market be developed on joint venture basis with 50:50 ratio by Shri Maharghya Mukherjee, Proprietor, M/S. Maharghya Mukherjee (Developer), 14C Dr. Subhas Lane (formerly Simlai Para Lane), Paikpara, Kolkata-700 002, and the benefits and/or usufruct arising therefrom be utilized for the benefit and/or restoration of the debottor Estate, with a right to construct and transfer to third parties, as This Hon’ble Court would deem fit and proper.

(b) an Order that to confirm the continuation of the aforesaid existing Board of Trustees appointed by the Order dated August 26, 2019 to continue for a further term of 3 years on the same terms and conditions or on the terms and conditions as This Hon’ble Court may deem fit and proper;

(c) and Order that during the pendency of this application, This Hon’ble Court shall be pleased to allow the Board of Trustees appointed by the Order dated August 26, 2019 to continue as and discharge the functions of the trustees of the said debottor estate;

(d) Ad interim prayer in terms of the prayer (b) above;

(e) Costs of and incidental to this Application be borne and paid out of the funds of the said Estate;

(f) Such further and/or other Order or Orders, direction and/or directions may be passed, as This Hon'ble Court may deem fit and proper;"

3. Both the applications are taken up together for consideration and disposal.

4. By order dated 26th August, 2019, four persons were appointed as new trustees of the board of trustees of the trust estate of Raja Sir Radha Kant Deb Bahadur as follows:

"With the above undertaking of Sri Debraj Mitra, all the shebaitis are ready to accept him also as one of the members of the Board of Trustees of the trust estate. The applicants as well as all the other shebaitis appearing before this Court have agreed that the aforementioned four persons may be appointed as a new trustees of the Trust Board of the trust estate. Accordingly, Sri Saibal Narayan Deb, Sri Dilip Narayan Deb, Sri Tapas Bose and Sri Debraj Mitra are appointed as the new trustees of Board of Trustees of the trust estate of Raja Sir Radha Kanta Deb Bhadur, since deceased. The said trustees shall discharge their duties in terms of the order dated October 7, 1996 as confirmed by the order dated April 9, 1999. The Board of Trust shall be entitled to act by majority decision of the trustees. As suggested by the applicants and the other shebaitis the life of the new Board of Trustees shall be valid for a period of three years with effect September 1, 2019. After expiry of each period of three years, the shebaitis will be entitled to select new trustees of the Board of Trustees by election, subject to confirmation by this Court."

5. The petitioner in the present application being GA 5 of 2022 has raised following four-fold grievance.

Firstly, since appointment, the petitioner looked after and supervised of the works of the estate. It was decided between the trustees that the they would receive monthly honorarium of Rs. 5,000/- and an additional amount of Rs. 2,000/- each being the members of the managing committee. By letter dated 23rd October, 2019, the petitioner being one of the trustees requested the other trustees to grant honorarium of

Rs.7,000/- to the petitioner. However, till date, no such honorarium has been paid to the petitioner.

Secondly, that the *paladar* list was prepared by the other trustees behind the back of the petitioner without serving notice of meeting to the *sebaits* and no consent of the petitioner was obtained for acceptance of new *paladar*. The *paladar* list has been prepared giving favouritism to the *sebaits* who are very close to the other trustees namely Sri Tapas Bose, Sri Saibal Deb and Sri Debraj Mitra.

Thirdly, the other three trustees namely Sri Tapas Bose, Sri Saibal Deb and Sri Debraj Mitra have transferred a property measuring an area of 4 *cottahs* 2 *chittacks* 38 square feet lying and situated at Mouza-Sukhchar, J.L. No.9, R.S. No.14, Touzi No.56, R.S. Dag No.2588, R.S. Khatian No. 1880, comprising of land measuring 3 *cottahs* 20 square feet and R.S. Dag No. 2591 under R.S. Khatian No. 1881 and land measuring 1 *cottah* 02 *chittacks* 18 square feet under Panihati Municipality Ward No.1, Holding No. 55, R.R.K. Deb Bahadur Road (Rajabagan) under A.D.S.R., Sodepur, Police Station-Khardah, Kolkata-700115, District-North 24 Parganas along with a 300 square feet asbestos roofing shed standing thereon along with all other easement and quasi-easement rights over the said land without any information and intimation to the petitioner being one of the trustees and also without seeking any permission from this Hon'ble Court.

Lastly, as per the order of this Hon'ble Court, election of the board of trustees was to be conducted in every three years. Since the period of three years is coming to an end, the other three trustees are trying to control the affairs of the trust estate.

6. Mr. Ayan Kumar Boral, learned advocate for the petitioner submitted that although it was decided by the board of trustees that the trustees will be entitled to honorarium, however, no such honorarium was paid to the petitioner in spite of repeated persuasion. Further the *paladar* list was prepared by other three trustees behind the back of the petitioner without properly notifying the petitioner or any other *sebaitis*. Moreover, the other trustees namely Sri Tapas Bose, Sri Saibal Deb and Sri Debraj Mitra without seeking leave and permission of this Hon'ble Court have transferred a property belonging to the estate and that too at a meagre consideration price of Rs.3,00,000/-, the valuation of which as per government valuation is Rs. 48,52,66/-. Therefore, by selling of such property, loss has incurred to the trust estate instead of profit and thus the sale has not at all benefitted the trust estate. The respondents namely the other trustees have tried to make out a case that it was a necessity to transfer such property for the benefit of the trust estate and to meet out expenses, however, the profit and loss account of the trust estate would show that sufficient amount of money was lying in the account when such transfer took place. He further submitted that in terms of order of this Hon'ble Court election of the board of trustees has become due as three years as stipulated by the Hon'ble Court has already expired and therefore a direction be issued for holding election for formation of new board of trustees. In light of his aforesaid submissions, he prayed for revocation of the deed of conveyance dated 19th March, 2021 executed by the other three trustees in favour of the transferee/purchaser Bikram Adhikary and

for appointment of an administrator till the new board of trustees is formed.

7. On the contrary, Mr. Surajit Nath Mitra, learned Senior advocate representing the respondents in GA 5 of 2022 submitted that in the board meeting dated 9th November, 2019, the petitioner himself has recused from receiving honorarium, therefore, the allegation that the other trustees refused to pay honorarium to the petitioner does not stand to reason.

So far as the preparation of *paladar* list of *sebaitis* is concerned, no objection was raised by any of the *sebaitis* against such *paladar* list. The petitioner was informed by the board of trustees to attend the meetings and the peon book would reveal that he received such notice but choose not to attend such meetings of the *sebaitis* on 21st March, 2021, wherein list of *paladars* was prepared and approved by majority of *sebaitis* after detailed discussion as per the genealogical chart of the estate of *Sir Raja Radha Kant Deb Bahadur*. In fact, two draft lists of *paladars* were prepared, one by Sri Tapas Bose and another by Sri Joydeep Ghosh, and second draft list was approved by the majority of the *sebaitis*. He further indicated that the petitioner Dilip Narayan Deb remained absent in the most of the meetings despite service of notice. For such reason, majority of *sebaitis* requested the present board of trustees to cancel the trusteeship of said Dilip Narayan Deb.

With regard to the sale of the properties situated at Sukhchar, he submitted that the two properties were fully occupied by the local club, illegal occupiers and descendants of the erstwhile caretaker of the said estate. The estate neither had any access to the said properties nor any

usufruct could be earned by the said estate from the onerous properties. Time to time members of the board of trustees and *sebaitis* of the said estate tried to settle the dispute amicably with the said occupiers and to increase income of the said estate therefrom, but the illegal occupiers never paid any heed to them. The *debottor* estate had no control and/or authority over the onerous properties. Thus, any normal procedure of sale by way of auction or paper publication could have resulted in futile exercise. Moreover, it was clear that any legal initiation and/or tussle with regard the said properties could only raise unnecessary expenses of the estate without getting anything in return. The legal heirs of the erstwhile caretaker approached the said estate to transfer the onerous properties in their names in lieu of certain consideration vide letters dated 12th December, 2014 and 8th November, 2019. For the reasons as aforesaid, the present board of trustees by their resolution taken in meeting dated 17th August, 2020, registered the onerous properties in the favour of the occupants and entire consideration amount was deposited in the *debottor* account for the betterment and upliftment of the trust estate. During COVID-19 Pandemic, the administration was facing financial stringencies since collection of rents from the tenants was disrupted. The proceeds of the aforesaid sale helped the board of trustees to conduct *debseba* as well as to run administration of the trust estate smoothly during the COVID period. He also indicated that *Amra Sobai Sporting Club* has also given a notice on 8th June, 2022 proposing to register a deed of gift in their favour which is occupied by them in Sukhchar.

He further submitted that the prayer in GA 5 of 2022 seeking revocation and/or cancellation of deed of conveyance is not tenable as revocation and/or cancellation of a deed of conveyance should be sought for by a regular suit and not by way of filing an application. He also indicated that the properties transferred in favour of the purchaser by the board of trustees is not a *debottor* property and, therefore, the impugned sale cannot be said to be violation of any procedure relating to administration of the trust property.

In view of the aforesaid submissions, he prayed for dismissal of the application being GA 5 of 2022.

8. In GA 6 of 2022 filed by the other three trustees, at the outset, with regard to prayer (a), he sought to withdraw such prayer with liberty to file afresh.

9. Mr. Akash Dutta, learned advocate appearing for the purchaser submitted that they are the legal heir of the erstwhile caretaker and they are possessing the property in question since long. A proposal was made from the side of the purchaser to the board of trustees for executing sale deed in their favour. In consequence thereof, the sale deed has been executed by the board of trustees in favour of his client. Thus, it cannot be said that such execution of deed of conveyance has been made in a malafide manner. The predecessor-in-interest of the purchaser were allowed to stay in the property since they did not have alternative accommodation. The documents issued by the government clearly shows bonafide occupancy of the purchaser. The purchaser has purchased the land area on good faith and on the basis of long-term relationship with the

estate of *Sir Radha Kant Deb Bahadur*. The bonafide intention of the purchaser cannot be questioned so far as the execution of the sale deed is concerned. Further the prayer made in the application for revocation of the sale deed is not tenable by way of an application. As per settled proposition of law, revocation of a deed of conveyance is to be sought for by way of a regular suit. Therefore, the prayer for revocation for deed of conveyance executed by the board of trustees in favour of the petitioner cannot be entertained in the present application. He prays for dismissal of the application.

10. Having heard the learned advocates for respective parties, the grounds taken by the petitioner in GA 5 of 2022 needs to be examined in the backdrop whether the action of the other three trustees of board of trustees is an infraction to the administration of the trust properties.

11. With regard to the first ground of refusal of payment of honorarium to the applicant who is one of the trustees of the board of trustees, it is found that such issue for granting honorarium was raised by the applicant on 23rd October, 2019 (Annexure B to the application, at page 35). The minutes of the board of trustees dated 9th November, 2019, appended to the supplementary affidavit of the respondents dated 6th September, 2023 (Annexure B), shows that the applicant Dilip Narayan Deb and Sri Tapas Bose recused from receiving honorarium. From the aforesaid materials it is seen that subsequent to raising the demand for grant of honorarium on 23rd October, 2019 the applicant himself on 9th November, 2019, has recused from receiving payment of honorarium. Therefore, the contention of the applicant that there was refusal on the part of the other three

trustees of the board of trustees in making payment of honorarium to the applicant does not stand to reason.

12. As regards the second ground that the *paladar* list was prepared by the other three trustees of the board of trustees behind the back of the petitioner without serving notice, at the outset, it is placed on record that excepting the applicant no other *sebaits* have objected to such *paladar* list. By notice dated 23rd February, 2021 (Annexure C, at page 36 of the application), an extraordinary general meeting was notified to be held on 21st March, 2021, Sunday, at 11:00 A.M. and suggestion and amendment were called for from the *sebaits* by 15th March, 2021, 5:00 P.M. with regard to preparation of new *paladar* list. It is relevant to note from the aforesaid notice that the same has been issued in reference to the last meeting of the *sebaits* of the estate of *Sir Radha Kant Deb Bahadur* dated 18th February, 2021. Upon perusal of the photocopy of peon book (Annexure D at page 71 of the supplementary affidavit dated 6th September, 2023), the notice of the *sebaits'* meeting dated 18th February, 2021 was sent to the applicant Dilip Narayan Deb on 2nd February, 2021, however, the same was refused. Moreover, the photocopy of peon book (Annexure D at page 80 of the supplementary affidavit dated 6th September, 2023), the *Pala* notice dated 23rd February, 2021 was sent to the applicant Dilip Narayan Deb and was duly served upon him. Therefore, the applicant cannot claim that the *paladar* list was prepared without any service of notice upon him or was not within his knowledge.

13. The third ground relates to transfer of property within Mouza-Sukhchar in favour of a third party by the other three trustees of the board

of trustees without the leave and permission of the Court. Upon going through the deed of conveyance annexed to the application and affidavit-in-opposition to GA 6 of 2022, admittedly, following two properties have been transferred:

(i) By deed of conveyance being no. 4287 dated 22nd March, 2021 (Annexure E to the application GA 5 of 2022) an area of 4 *cottahs* 2 *chittacks* 38 square feet lying and situated at Mouza-Sukhchar, J.L. No.9, R.S. No.14, Touzi No.156, R.S. Dag No.2588, R.S. Khatian No. 1880, comprising of land measuring 3 *cottahs* 20 square feet and R.S. Dag No. 2591 under R.S. Khatian No. 1881 and land measuring 1 *cottah* 02 *chittacks* 18 square feet under Panihati Municipality Ward No.1, Holding No. 55, R.R.K. Deb Bahadur Road (Rajabagan) under A.D.S.R., Sodepur, Police Station-Khardah, Kolkata-700115, District-North 24 Parganas along with a 300 square feet asbestos roofing shed standing thereon all other easement and quasi-easement rights over the said land has been transferred by the other trustees namely Tapas Bose, Saibal Deb and Debraj Mitra in favour of one Bikram Adhikary.

(ii) By deed of conveyance being no. 7592 dated 22nd August, 2022 (Annexure R-5 to affidavit-in-opposition in GA 6 of 2022) an area of 1 *cottah* 14 *chittacks* 11 square feet being Scheme plot no. B & C together with 200 sq ft tile shed structure standing thereon lying and situated at Mouza-Sukhchar, J.L. No.9, R.S. No.14, Touzi No.156, R.S. Dag No.2586, R.S. Khatian No. 1880, comprising of land measuring 9 *chittaks* 32 square feet under holding no. 65 and R.S Dag no. 2591, under R.S Khatian no. 1881 and land measuring 1 *cottah*, 4 *chittaks* 24 square feet under holding

no.66 within jurisdiction of Panihati Municipality Ward No.1, Holding No. 55, R.R.K. Deb Bahadur Road (Rajabagan) under A.D.S.R., Sodepur, Police Station-Khardah, Kolkata-700115, District-North 24 Parganas along with all other easement and quasi-easement rights over the said land has been transferred by the other trustees namely Tapas Bose, Saibal Deb and Debraj Mitra in favour of one Bikram Adhikary.

14. It is also not in dispute that prior to sale of the properties no such leave or permission from the Court was taken by the other three trustees of the board of trustees. It is the contention of the respondents in GA 5 of 2022 that the property within Mouza-Sukhchar was within the possession of illegal occupiers and descendants of the erstwhile caretaker of the said estate. The estate neither had any access to the said properties nor any usufruct could be earned by the said estate from the onerous properties. Time to time members of the board of trustees and *sebaits* of the said estate tried to settle the dispute amicably with the said occupiers and to increase income of the said estate therefrom, but the illegal occupiers never paid any heed to them. The *debottor* estate had no control and/or authority over the onerous properties. Thus, any normal procedure of sale by way of auction or paper publication could have resulted in futile exercise and any legal initiation and/or tussle with regard the said properties could only raise unnecessary expenses of the estate without getting anything in return. Be that as it may, even if for the sake of argument the grounds as aforementioned raised by the respondents in support of compulsion in selling the property to a third party occupier is acceded to, in that event too it cannot construe to be a reasonable ground

for not approaching the Court seeking leave and permission to sell such properties of the *debottor* estate.

15. Upon going through the pleadings in GA 6 of 2022, it is found that the respondent (applicant in GA 5 of 2022) in his affidavit-in-opposition has stated that the testator Radha Kant Deb Bahadur by his last Will and testament dated 3rd August, 1863 declared that the executors and trustees shall have full power to sell, mortgage the properties of the testators as owners. By an order dated 20th September, 1869 in Appeal 1 of 1869, this Hon'ble Court declared that the clauses 10, 18 and 20 of the probated Will of the deceased, which gave power of sell, are invalid and, therefore, the executors and trustees had no authority to sell and mortgage the properties of the testator. The applicants (respondents in GA 5 of 2022) accepted in their supplementary affidavit that the clauses 10, 18 and 20 of the probated Will were declared invalid. Clause 20 at page 42/43 of the application GA 6 of 2022 of the last Will and testament dated 3rd August, 1863 of testator Radha Kant Deb Bahadur shows that the executors and trustees were given full power to sell, mortgage the properties of the testators. Since Clause 20, by dint of which powers were given to the executors and trustees to sell, mortgage, has been declared as invalid by this Court, thus there cannot be any quarrel that the executors and trustees have no authority to sell or mortgage any property of the testator. Accordingly, it was incumbent upon the other three trustees of board of trustees, who executed the deed of conveyance in favour of third party, to seek leave and permission of the Court prior to such execution of deed of conveyance. Thus, the sale executed in favour of a third party by the other

three trustees of the board of trustees without the permission of the Court is a manifest infraction to the administration of the trust estate.

16. It has been strenuously argued by Mr. Mitra, learned Senior Advocate for the respondents in GA 5 of 2022 that the property in question is not a *debottor* property and, therefore, the impugned sale cannot be said to be violation of any procedure relating to administration of the trust property. Be that as it may, at the outset, it is placed on record that there is no such averments made in the affidavit-in-opposition or the supplementary affidavit filed by the respondents in GA 5 of 2022 that the said property is not a *debottor* property. Rather averments in paragraph no.12 of the affidavit-in-opposition and paragraph no. 8 of the supplementary affidavit go to show that the properties in question belong to the *debottor* estate and thus the aforesaid argument on behalf of other three trustees does not hold good.

17. Further needless to note from the *major information of the deed* dated 19th March, 2021 the set forth value of the property is Rs. 3,00,000/- whereas the market value is Rs. 48,52,666/- and the *major information of the deed* dated 22nd August, 2022 the set forth value of the property is Rs.70,000/- whereas the market value is Rs. 20,95,502/-. As per the valuation report of the empanelled valuer dated 12th March, 2024 the value of the property in deed dated 19th March, 2021 under normal market scenario is Rs. 47,93,000/- and the estimated fair value is Rs.23,97,000/-. Thus on comparative analysis of above figures it manifest that the properties in question has been transferred by the other three trustees at a considerable lower price.

18. It is relevant to note from the minutes of the meetings dated 2nd January, 2020, 12th March, 2020, 27th November, 2020, 23rd March 2021 at pages 48, 52, 56 and 60 respectively (Annexure C/2 of the supplementary affidavit dated 6th September 2023) that the applicant in GA 5 of 2022 despite being informed did not attend the said meetings. By letter dated 15th June, 2022 (Annexure E to the supplementary affidavit dated 6th September, 2023), the *sebaits* prayed before the board of trustees for removal of Sri Dilip Narayan Deb from trusteeship due to his regular absence. The materials, thus, clearly shows that the applicant in GA 5 of 2022 did not make any active participation in discharging his functions towards the trust estate as a member of the board of trustees.

19. Bearing in mind the action of the other three trustees of the board of trustees in transferring the properties in question to a third party without the leave and permission of the Court and failure on the part of the applicant in GA 5 of 2022 to actively discharge his functions as a member of the board of trustees towards the trust estate, the trustees of the board of trustees namely Sri Saibal Narayan Deb, Sri Dilip Narayan Deb, Sri Tapas Bose and Sri Debraj Mitra are discharged from functioning as trustees.

20. It is found from order dated 26th August 2019 that the life of the new Board of Trustees shall be valid for a period of three years with effect September 1, 2019. After expiry of each period of three years, the *sebaits* will be entitled to select new trustees of the Board of Trustees by election, subject to confirmation by this Court. The life of the board of trustees has already expired. Needless to state that no steps has been taken as yet by

the board of trustees to hold election for formation of new board of trustees. Accordingly, this Court is of the view that election for formation of new board of trustees is to be held for administration of trust estate.

21. Accordingly, Mr. Aniruddha Mitra, learned advocate, Bar Library Club and Mr. Chayan Gupta, learned advocate, Bar Library Club are appointed as Joint Administrator who shall have powers of the trustees i.e. operation of Bank Accounts, collection of rents etc. The Joint Administrators shall to the best of their ability discharge their obligations and functions in the administration of the trust estate until further orders. The Joint Administrators shall submit regular audited accounts on monthly basis before the learned Registrar, Original Side till the new board of trustees is formed. The Joint Administrators shall take steps to hold election for formation of new Board of trustees within last week of November, 2024. The Office of the trustees shall render all co-operation in discharging functions by the Joint Administrators. The discharged trustees shall hand over the charge of the trust estate to the Joint Administrator by 5th October, 2024 within 10:30 A.M.

22. In GA 5 of 2022, prayer (b) has been made for revocation of the deed of conveyance executed on 19th March, 2021 by the other three trustees namely Tapas Bose, Saibal Deb and Debraj Mitra in favour of Bikram Adhikary. Mr. Mitra learned Senior Advocate appearing for respondents has rightly submitted that revocation of deed of conveyance cannot be made by way of an application but such prayer should be made by way of a regular suit. In light of the above the prayer (b) in GA 5 of 2022 is

dismissed. However, it is left open for the new board of trustees or the petitioner to file regular suit for revocation of the deed of sale.

23. In view of above discussion GA 5 of 2022 is allowed to the extent of appointment of Joint Administrator.

24. The Joint Administrators shall submit report of compliance on 5th December, 2024.

25. The Joint Administrators shall receive remuneration of 2400 GMS each. Such remuneration shall be paid from the trust estate.

26. Mr. Mitra, learned Senior Advocate, during the course of hearing sought to withdraw prayer (a) in GA 6 2022 with liberty to file a fresh application. Such prayer (a) has been made for development of a portion of *Debottor* estate on joint venture basis with One *M/S Maharghya Mukherjee (Developer)*. Since the existing trustees of the Board of trustees have been discharged including the applicants, the question of granting liberty to the applicants/trustees to file afresh does not arise at all. As such the liberty sought for is rejected. However, it is left open to the new board of trustees to approach this Hon'ble Court with such prayer, if they so choose.

27. In GA 6 of 2022 prayer (b) has also been made seeking order to confirm the continuation of the aforesaid existing board of trustees appointed by the order dated August 26, 2019 to continue for a further term of 3 years on the same terms and condition or on the terms and conditions as this Hon'ble court may be fit and proper. Since the existing trustees of board of trustees have already been discharged, the prayer (b) mentioned hereinabove of the applicants stands dismissed.

28. The application being GA 6 of 2022 is, accordingly, dismissed.

29. So far as prayer (c) in GA 6 of 2022 is concerned, the applicants were allowed to continue as and discharge their functions of trustees of the said *debottor* estate vide order dated 13th December, 2022 during the pendency of the application. However, with the dismissal of the application, the aforesaid interim order in respect of prayer (c) stands vacated.

30. List GA 5 of 2022 on 5th December, 2024.

(Bivas Pattanayak, J.)