

OD-15

ORDER SHEET  
IN THE HIGH COURT AT CALCUTTA  
Ordinary Original Civil Jurisdiction  
ORIGINAL SIDE

IA NO. GA/17/2023  
In CS/702/1903

GANESH SARAN AGARWALA  
Vs  
KANHAYALAL AGARWALLA

BEFORE:

The Hon'ble JUSTICE SUGATO MAJUMDAR

Date : 16<sup>th</sup> June, 2023

Appearance:  
Mr. Sakya Sen, Adv.  
Mr. Supratim Laha, Adv.  
Mr. C. K. Deora, Adv.

Mr. Balaji Chakraborty, Adv.

The Court : GA No. 17 of 2023 was filed praying for leave to be granted to the petitioners as the trustees to enter into an agreement for development of premises No.2B, Babulal Lane, Kolkata-700007 in terms of the offer of the developer namely, M/s. K. N. Vinimay (P) Ltd., being Annexure "G" or on such terms/conditions as this Hon'ble Court may deem fit and proper or such other order.

This Court while allowing the petitioner to enter into development agreement with the said M/s. K. N. Vinimay (P) Ltd. directed to publish a newspaper advertisement inviting the tender for development and for reconstruction of the premises in terms of the order dated 8<sup>th</sup> May, 2023.

Pursuant to the said order, notice was published on 18<sup>th</sup> May, 2023 in English daily newspaper 'The Statesman' and Hindi daily newspaper 'Dainik Vishwamitra'.

The last date of submission of offer was fixed as 7<sup>th</sup> June, 2023. On 15<sup>th</sup> June, 2023 a supplementary affidavit was filed by the petitioner stating therein that not a single offer was received by them and since the building is in a precarious condition and about to be collapsed, steps should immediately be taken for rebuilding or reconstruction for which the agreement may be executed between the petitioners and the said M/s. K. N. Vinimay (P) Ltd. in terms of the offer letter dated 3<sup>rd</sup> September, 2022. It also appears that Kolkata Municipal Corporation has issued a notice, as annexed, dated 19<sup>th</sup> April, 2018 proposing to declare the building as condemned.

In view of the aforesaid circumstances, in the interest of the trust property, it is absolutely necessary that the corpus of the property should be reconstructed or rebuilt so that there may be earning enough for fulfillment of the purpose of the trust.

Accordingly, leave is granted to execute agreement with the said M/s. K. N. Vinimay (P) Ltd. on condition that interest of trust property as well as

the purpose of the trust should not be compromised and agreement must be enforced with the object and the purpose of same trust.

GA No. 17 of 2023 is disposed of.

This is also subject to condition that existing rights and liabilities of the tenants should not be thrown away and the provision of law as applicable should not be violated or infringed in any manner.

(SUGATO MAJUMDAR, J.)

Sbghosh.