

OD-2

GA/49/2020
In CS/1147/1947
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Via Video Conference)

SMT. SAILI GHOSH & ORS.

Versus

DEBAPRIYO SEN & ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 21st December, 2020.

Appearance:

*Mr.H.P. Basu, Adv.
..for the petitioners.*

*Mr. Manas Das, Adv.
..for the developer.*

The Court: This application is by an heir of the branch of Late Pratul Chandra Dey and Late Purna Chandra Dey in relation to Debutter property which was subject matter of Civil Suit No.1147 of 1947, which was decreed by an order dated 9th April, 1959 by which the parties were given liberty to apply to this Court from time to time for necessary orders. By the said decree the shares as Shebaitis of the said Deities were declared and the Scheme framed together with a Plan apportioning the shares of five branches of the Shebaitis and directions given

on the branches of the Shebaites to manage the Deity. A copy of the final decree dated 9th April, 1959 together with the Scheme is part of the application.

Learned counsel appearing for the applicants submits that heirs of the five groups have been performing the Sheba Puja and periodical festivals of the Deity and managing the properties allotted to them as the Shebaites for the benefit of the Deity. Each of the five groups are well-demarcated individual groups. It is also submitted that the properties allocated to the five groups of Shebaites by way of the Scheme are tenanted properties from which income is derived by the Shebaites. Counsel places various orders by which the properties allocated were permitted to be developed for ensuring better income from the properties allocated.

The immediate ground for making this application is an offer letter dated 11th January, 2020 from one Ananda Neer Developers and Promoters which has been received by the applicants who are the heirs of the fifth group of Shebaites of Pratul Chandra Dey and Purna Chandra Dey (defendant nos.2 and 3 in the Civil Suit of 1947). Counsel submits that the applicants may be given leave to negotiate with the tenants and occupiers and act in pursuance of the offer letter for developing the property in question. The present applicants are defendant nos. 2, 2A and 2A-i.

On hearing learned counsel, this Court is of the view that, since the properties between the five groups of Shebaites were clearly demarcated by way of the Scheme framed following the final decree of 9th April, 1959, there can be no impediment to passing the orders prayed for in this application. A Plan disclosed with the application that indicates clear demarcation by way of colour where Lot

C(3) in which the applicants are interested, is shown in green. There is no overlapping of this Lot with any of the other Lots which, as submitted by counsel, are occupied by the other groups of the Shebaitis.

Earlier orders passed in respect of other properties by the Court show that similar orders were passed where prayers for developing the properties allocated to the Shebaitis were granted.

In view of the above, GA No.49 of 2020 is allowed in terms of prayers (a), (b), (c) and (d). The applicants are given leave to develop and promote the property as shown in the Plan (Lot C(3)) in terms of the offer letter received by the applicants and enter into agreements with the tenants and the other present occupiers of the property for facilitating construction on the plot of land.

The applicants are also permitted to invest the consideration money out of development of the property or any amounts thereof in a fixed deposit or any other beneficial account in the name of the Deity as Shebaitis of the said Deity.

GA No. 49 of 2020 is disposed of in terms of the above.

(MOUSHUMI BHATTACHARYA, J.)