

OD-3

ORDER SHEET
GA 51 OF 2021
CS 1147 OF 1947
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

SMT. SAILI GHOSH & ORS.
Versus
DEBAPRIYO SEN & ORS.

BEFORE:
The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA
Date : 13TH July, 2021.

Appearance :
H.P. Basu, Adv.
...for the petitioner.

Mr. Goutam Misra, Adv.
...for the opposite party.

The Court: The petitioner has effected service on the respondents pursuant to the direction given passed by this Court on 13th April, 2021. The affidavit of service is on record.

This application is by one of the heirs of the branch of the 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 Shebaitis 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 applicant submits that the 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 17th July, 2020 from one Sion Construction which has been received by the applicant who is the heir 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 applicant 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 applicant is the defendant no. 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 applicant is 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 Shebaites.

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 Shebaites were granted.

In view of the above, I.A. No.51 of 2021 is allowed in terms of prayers (a), (b), (c) and (d). The applicant is given leave to develop and promote the property in terms of the offer letter received by the applicant and enter into agreements with the tenants and the other present occupiers of the property for facilitating construction on the plot of land.

The applicant is 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 Shebaites of the said Deity.

I.A. No. 51 of 2021 is disposed in terms of the above.

(MOUSHUMI BHATTACHARYA, J.)