

OD 7

ORDER SHEET  
IA NO:GA/52/2021  
In  
CS/1147/1947  
IN THE HIGH COURT AT CALCUTTA  
ORDINARY ORIGINAL CIVIL JURISDICTION  
ORIGINAL SIDE

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

BEFORE:  
The Hon'ble JUSTICE SHEKHAR B. SARAF  
Date: 22<sup>nd</sup> February, 2022.

(Via Video Conference)

*Appearance:*  
*Mr. Kamlesh Bhattacharjee, Adv.*  
*Mr. Goutam Dey, Adv.*  
*Mr. Rajesh Naskar, Adv.*  
*Mr. Dipendu Sarkar, Adv.*  
*Mr. Kaushal Kumar, Adv.*  
*Ms. Ankita Ghosh, Adv.*  
*...for the Applicants.*

The Court: This application is by an heir of the branch of Late Khagendranath Sen in relation to Debutter property which was subject matter of Civil Suit No.1147 of 1947, which was decreed by an order dated 9<sup>th</sup> 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 9<sup>th</sup> 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 22<sup>nd</sup> January, 2021 from one Tarun Banerjee Developers and Promoters which has been received by the applicants who are the heirs of the five groups of Shebaites of Khagendranath Sen (defendant no.1 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.1A and 1B.

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 9<sup>th</sup> 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 A1 (9) in which the applicants are interested, is shown in blue. 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 Shebaitis were granted.

In view of the above, IA No.GA/52/2021 is allowed in terms of prayers (a), (b), (c), (d) and (e). The applicants are given leave to develop and promote the property as shown in the Plan (Lot A1 (9)) 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 of any other beneficial accounts in the name of the Deity as Shebaitis of the said Deity.

IA No.GA/52/2021 is disposed of in terms of the above.

(SHEKHAR B. SARAF, J.)