

ODSL-1

ORDER SHEET

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

IA NO.GA/1/2025
CS/4/2025

SANJAY CHOUDHARY
-VS-
DEWKI NANDAN CHOUDHARY AND OTHERS

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : January 9, 2025.

Appearance:
Mr. Rajarshi Dutta, Adv.
Mr. Sayantan Bose, Adv.
Mr. Shounak Mukhopadhyay, Adv.
Ms. Manisha Das, Adv.
Ms. Priyanka Gope, Adv.
... for the plaintiff

The Court: Mr. Rajarshi Dutta, learned counsel, is appearing for the plaintiff.

The plaintiff has filed the present suit praying for declaration that the plaintiff is the Trustee of the Trust being Kanahaiya Lal Ramkumar Memorial Trust and the alleged resignation letter dated 2nd November, 2024, Supplementary Trust Deed dated 8th November, 2024 and the resolution of the board of trustees dated 8th October, 2024 and 29th November, 2024 as null and void and allied prayers including perpetual injunction.

Counsel for the plaintiff submits that the Trust office is within the jurisdiction of this Court and part of cause of action arose within the jurisdiction of this Court and part cause of action arose outside the jurisdiction of this Court. Counsel for the plaintiff prays for leave under

Section 92 of the Code of Civil Procedure as well as leave under Clause 12 of the Letters Patent, 1865.

Heard learned counsel for the plaintiff. Perused the plaint and the documents.

This Court finds that the plaintiff has challenged the alleged resignation dated 2nd November, 2024 and on the basis of the said alleged resignation, Supplementary Trust Deed was entered on 8th November, 2024 by the defendant no.1 on the basis of the resolution dated 8th October, 2024 and subsequently, resolution has been taken on 29th November, 2024. This Court finds that the suit filed by the plaintiff is connected with the Trust and the plaintiff has prayed for declaration. Thus, leave under Section 92 of the Code of Civil Procedure is granted. It is also found that some cause of action is within the jurisdiction of this Court and some cause of action is outside the jurisdiction of this Court. Accordingly, leave under Clause 12 of the Letters Patent is granted.

Plaint is admitted subject to scrutiny by the department.

The plaintiff has filed the application being GA/1/2025 praying for *ad interim* injunction.

Counsel for the plaintiff submits that initially the Trust deed was entered between the father of the plaintiff and the father of the defendant no.1. Subsequently, on 30th May, 2019, another Supplementary Deed of Trust was entered wherein Bhola Ram Choudhary, Dewki Nandan Choudhary and Lalit Choudhary were being made trustees of the said Trust. Subsequently, again on 16th September, 2019, a Supplementary Deed of Trust was entered between Dewki Nandan Choudhary, Lalit

Choudhary and Sanjay Choudhary and all the three persons have become trustees of the Trust, namely, Kanahaiya Lal Ramkumar Memorial Trust.

Counsel for the plaintiff submits that the defendant no.1 has forged the letter dated 2nd November, 2024 by treating the same as resignation of the plaintiff as trustee of the Trust and on the basis of the said alleged resignation letter meeting was conducted on 8th October, 2024 by accepting the resignation of the plaintiff and after the acceptance of the resignation, a further Supplementary Deed of Trust was entered on 8th November, 2024 between the defendant no.1 and the defendant no.2 wherein the plaintiff has been ousted from the said Trust.

Counsel for the plaintiff submits that the plaintiff has never resigned from the said Trust as trustee. Counsel for the plaintiff draws the attention of this Court to the minutes of the meeting of the Trust, namely, Kanahaiya Lal Ramkumar Memorial Trust dated 8th October, 2024 wherein it is recorded that Sanjay Choudhary, serving as a Trustee, has submitted a formal resignation letter dated 2nd November, 2024. It is pertinent to mention here that minutes of the meeting was recorded on 8th October, 2024 but in the said meeting, the letter dated 2nd November, 2024 was discussed which is not possible at all.

Counsel for the plaintiff has also relied upon the declaration of the defendant no.2 wherein the defendant no.2 has stated that he has acknowledged and signed the Supplementary Trust Deed dated 8th November, 2024 in the capacity of the trustee but he has not fully understood or thoroughly gone through the contents of the said Trust Deed. He has also stated in the declaration that after signing the said Trust Deed, the copy of the said Trust Deed was not provided to him so that he can

immediately go through the said Supplementary Trust Deed carefully. In the said declaration he has also stated that the resignation of the plaintiff is baseless and false as Sanjay Choudhary has confirmed that no such resignation letter was submitted by him.

Counsel for the plaintiff further submits that on the basis of the resignation letter, the defendant no.1 has sent the notice to the defendant banks for changing the signatory in the accounts maintained in the name of the Trust by deleting the name of the plaintiff as signatory and when the plaintiff has come to know about the same, immediately, the plaintiff has informed the bank that he has not resigned as a trustee of the said Trust.

Counsel for the plaintiff submits that as the plaintiff has not signed any resignation letter and the resignation letter which the defendant has relied upon, is forged and fabricated one, on the basis of which the defendant no.1 has already executed Supplementary Trust Deed and is trying to be a signatory of the bank account maintained in the name of the Trust and as such, he prays for an interim order.

Considered the submission made by the counsel for the plaintiff. Perused the materials on record.

This Court finds that, the plaintiff was one of the trustee of the Trust and on the basis of the alleged resignation letter dated 2nd November, 2024, the defendants have taken resolution and also entered into a Supplementary Trust Deed by removing the name of the plaintiff and also made an endeavour by submitting the documents to the bank authorities for changing the signatory.

This Court also finds that the plaintiff has challenged the alleged resignation letter dated 2nd November, 2024. In the minutes of the meeting

wherein the alleged resignation letter was accepted by the defendants, the meeting was conducted on 8th October, 2024 but in the said meeting the letter dated 2nd November, 2024 was discussed which is impossible. The defendant no.2 who is also one of the trustee. In his declaration has stated that he has no knowledge with regard to the contents of the Supplementary Trust Deed executed subsequently by removing the name of the plaintiff as trustee. From the documents it is also clear that the defendant is trying to become signatory of the accounts of the Trust by removing the name of the plaintiff.

Considering the above, this Court finds that the plaintiff has made out a *prima facie* case, balance of convenience and inconvenience in his favour. This Court also finds that if at this stage, an ad interim order is not passed, there is every chance that the defendant no.1 will siphon off the amount lying in the account of the Trust.

Accordingly, *ad interim* injunction in terms of prayer (a), (c), (d), (e) and (g) of the present application is allowed till 5th February, 2025.

The plaintiff is directed to serve the copy of the plaint along with application and documents to the defendants immediately and to file affidavit of service on the returnable date.

Let the matter appear on 5th February, 2025.

(KRISHNA RAO, J.)