

IN THE HIGH COURT AT CALCUTTA  
ORDINARY ORIGINAL CIVIL JURISDICTION  
ORIGINAL SIDE

AOT/1/2026

THE OFFICIAL TRUSTEE OF WEST BENGAL  
VS  
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 21<sup>st</sup> January, 2026.

Appearance:

Mr. Indranil Nandi, Adv.

Mr. Sayak Konar, Adv.

. . . for the petitioner.

Mr. Nilotpal Chatterjee, Adv.

Ms. Manisha Nath, Adv.

. . . for KMC.

Mr. Sirsanya Bandyopadhyay, Sr. Standing Counsel.

Mr. Deepnath Roy Chowdhury, Adv.

. . . for the State.

Mr. Md. Farhaduddin, Adv.

. . . for stall holders.

The Court:- Affidavit of service filed in Court today is taken on record.

This is an application by the Official Trustee seeking certain directions after having appointed to take control over the management of the

trust estate by the name Rustamjee Cowasjee Charitable Trust of Agiari Fire Temple.

It is the case of the Official Trustee that the properties belonging to the trust include the Agiari Fire Temple and surrounding lands, a portion of which is occupied by stall holders. In fact, a devastating fire broke out in a portion of the area occupied by the stall holders which has caused damage to the fire temple structure. The Official Trustee wants the entire property to be measured and encumbrances therein, if any, to be noted down. The Official Trustee also says that to ascertain the extent of the property of the trust for managing of which the Official Trustee has been engaged by the Division Bench of this Court vide order dated 17<sup>th</sup> January, 2025 the survey of the property is necessary. This will not only give a clear picture of the occupied portion as also the damage to the fire temple caused due to the recent fire episode.

On behalf of some of the stall holders Mr. Md. Farhaduddin, learned Advocate, on instructions from some of the stall holders submits that his clients should be allowed to intervene in the proceedings for effective adjudication of the issues involved.

It is also the case of the Official Trustee that in reply to the request made by him to the Kolkata Municipal Corporation (in short 'KMC'), the Environment and Heritage Department of KMC by letter dated 12<sup>th</sup> December, 2025 had requested the Official Trustee to engage a KMC Empanelled Conservation Architect to prepare a restoration proposal duly

endorsed by him for the premises no.26, Ezra Street, Kolkata – 700 001 for being presented before the Heritage Conservation Committee, KMC for consideration of the Heritage Conservation Committee, KMC. The Official Trustee had also sought for police assistance from the Hare Street Police Station being the local police station, the officials whereof are the respondent nos.5 and 6 in this application. The police authorities represented by Mr. Deepnath Roy Chowdhury submits a copy of the instruction received by him from the Officer-in-Charge, Hare Street Police Station which is placed before the Court and taken on record.

It appears from the said instruction that the police personnel are ready and willing to render assistance for any survey work.

In the aforesaid facts and circumstances, the Official Trustee with the assistance of Kolkata Police authorities shall scrutinize the documents of the stall holders for ascertaining as to their respective rights in the occupied portion of the trust property. The Official Trustee should conduct the survey and ascertain the tenancy and/or occupational right of the stall holders and file a report before this Court on the returnable date as Mr. Md. Farhaduddin appears under the instructions of some of the stall holders and submits that his clients should be allowed to intervene in the proceedings and be made party respondents therein. The Commissioner of KMC should render all assistance in conducting the survey work. The initial expenses for the time being shall be borne by the Official Trustee from out of its funds.

At this stage, I do not find any reason to implead the intervenors present before the Court on being represented by Mr. Md. Farhaduddin, learned Advocate, particularly when the application is under the provisions of Section 25 of the Official Trustees Act, 1913.

It also appears from the order dated 17<sup>th</sup> January, 2025 passed by the Division Bench in FAT 3469 of 2001 that one Monotona Marketing Private Limited represented by its director Mr. Suresh Kumar Daga having its office at 27, Ezra Street, Kolkata – 700 001 who was before the Division Bench and contended to be a lessee in respect of the portion occupied by the stall holders was directed to pay a sum of Rs.30 lakhs with the Official Trustee as a condition precedent for the appellant in FAT 3469 of 2001 to pursue the suit for specific performance till the reasonable occupational charges for being in possession of the property is decided in the pending proceedings. The said Monotona Marketing Private Limited or Suresh Kumar Daga have not deposited any sum of money as directed by the Division Bench vide order dated 17<sup>th</sup> January, 2025.

The said Monotona Marketing Private Limited and/or Suresh Kumar Daga is directed to deposit the said sum of Rs.30 lakhs with the Official Trustee within 10<sup>th</sup> February, 2026, failing which appropriate orders will be passed against the said Monotona Marketing Private Limited or Suresh Kumar Daga.

The Official Trustee shall serve a notice upon Monotona Marketing Private Limited and Suresh Kumar Daga annexing the order dated 17<sup>th</sup>

January, 2025 and the instant order. The respondent nos.5 and 6 are directed to serve a copy of the order dated 17<sup>th</sup> January, 2025 and the instant order to Monotona Marketing Private Limited and Suresh Kumar Daga.

Let this matter appear on 18<sup>th</sup> February, 2026 for further consideration.

(ARINDAM MUKHERJEE, J.)

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