

OD-11

ORDER SHEET

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

CSOS/5/2024

RONENDRA CHOWDHURY AND ORS.
VS
SUBODH KUMAR MAJUMDER AND ANR.

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : 12th September, 2024.

Appearance:

Mr. Jishnu Chowdhury, Adv.

Mr. Soumalya Ganguli, Adv.

...for the plaintiffs.

Mr. Supriyo Gole, Adv.

Ms. Aishwarya Kumar Awasthi, Adv.

...for the defendants.

The Court: Mr. Jishnu Chowdhury, learned Counsel, is appearing for the plaintiff and Ms. Supriyo Gole, learned Counsel, is appearing for the defendants.

The defendants have filed affidavit in terms of the order dated 21st August, 2024 after serving the copy to the learned Counsel for the plaintiff. Let the same be kept with record.

In the affidavit, the defendants have stated that they have no objection to the opinion as sought for in the present originating summons suit being CSOS/5/2024. The plaintiffs have sought for the following opinion from this Court :

(a) Whether in view of the assertions made by some of the beneficiaries /members of the said trust, the trustees could

dispose of all assets of the said trust and distribute the proceeds to all beneficiaries/members?

(b) Whether the trustees are empowered to immediately sell all assets of the said trust?

(c) Whether upon liquidation of all assets of the said trust and distribution of sale proceeds, the said trust would stand extinguished and if not whether the trustees are required to undertake any further act or deed for this purpose?

The trustees have filed the present application on the ground that time and again the trustees are receiving the representation from the beneficiaries making several allegations with regard to the mis-utilization of funds and properties of the Trust and as such the Trust has filed the present application so that Court can give an opinion to the question raised by the trustees for taking appropriate steps.

It is informed to this Court that there are more than 3000 beneficiaries of the Trust. It is not possible for the Trust to make all beneficiaries as party to the present originating summons suit.

This Court is of the view that before proceeding the suit further, an opportunity of hearing is to be given to the beneficiaries and detailed report with regard to the assets of the Trust property and the allegation made by the beneficiaries are required to be looked into.

Hon'ble Mr. Justice Alope Chakraborti (Retired) is appointed as Special Officer to do the following:-

1. To hold meetings with the Trustees and all beneficiaries of the Trust to ascertain the dispute.
2. To cause inquiry on the complaints made by the beneficiaries for misutilization of the fund of the Trust.
3. To ascertain the entire property/assets of the Trust.
4. To obtain audit report from the Trust and if required, fresh audit be conducted through the Chartered Accountant.
5. To ascertain whether the properties can be sold and the amount can be distributed amongst the beneficiaries.
6. The Trust shall bear all expenditure including papers publication or appointment of Chartered Accountant, if any.

The plaintiffs shall pay remuneration of Rs.3,00,000/- to the Special Officer. Special Officer shall file report within three months from the date of receipt of this order.

Parties are directed to communicate this order to the Special Officer.

List this matter on 8th January, 2025 for filing report by Special Officer and further order.

(KRISHNA RAO, J.)