

OD-8

ORDER SHEET

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

CSOS/6/2024
IA No.GA/1/2025, GA/2/2025

KAMAL PODDAR AND ANR
VS
SHEO RATAN PODDAR AND ORS

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : January 22, 2025.

Appearance:

Mr. A.C. Kar, Adv.
Mr. Anirban Kar, Adv.
Mr. Munshi Ashiq Elahi, Adv.
Ms. Vedatri Bhattacharya, Adv.
... for the plaintiffs

Ms. Hashnuhana Chakraborty, Adv.
Mr. Anurag Bagaria, Adv.
... for the defendant nos.1, 3 and 4

Mr. Anirudh Poddar, Adv.
Mr. Amitabh Ray, Adv.
... for the defendant no.2

Mr. Orijit Chatterjee, Adv.
Ms. Sabarni Mukherjee, Adv.
... for the defendant no.5

The Court: Mr. A.C. Kar, learned Advocate, is appearing for the plaintiffs.

Ms. Hashnuhana Chakraborty, learned Advocate, is appearing for the defendant nos.1, 3 and 4.

Mr. Anirudh Poddar, learned Advocate, is appearing for the defendant no.2.

Mr. Orijit Chatterjee, learned Advocate, is appearing for the defendant no.5.

Defendant nos.1, 3 and 4 and the defendant no.2 have filed applications being GA/1/2025 and GA/2/2025 praying for extension of time to file written statement.

Counsel for the defendants submits that by an order dated 19th December, 2024, this Court has directed the defendants to file the written statement by 16th January, 2025 but the same could not be filed. Accordingly, the defendants have filed the present applications for extension of time to file written statement.

Per contra, learned counsel for the plaintiff has raised objection and submitted that the applications filed by the defendants are not maintainable as in the Originating Summons Suit, there is no provision for filing written statement and as such, this Court cannot extend the time for filing written statement.

Counsel for the plaintiff has relied upon Chapter XIII Rule 1 (f) of the Original Side Rules read with Chapter XIII A Rule 5(a) of the said Rules and submitted that in terms of the said Rules, no written statement is required.

Counsel for the plaintiff has further submitted that the plaintiff has filed the present suit for adjudication of the issues as mentioned in paragraph 19 of the present Originating Summons Suit being CSOS/6/2024 which reads as follows :

1. Whether under the Trust Deed dated 21st March, 1958 the Trustees of the Trust Estate of Bhagwan Devi Poddar Charity Trust have right to appoint any Trustee not being a member of the Poddar family?

2. Whether in view of the present physical condition of the defendant no. 1 he should be allowed to continue as a Trustee to the detriment of the Trust?
3. Whether Vikram Poddar, Arun Poddar and Abhijit Poddar or any two of them may be appointed as the Trustees in view of the embargo in the Trust Deed for appointing Trustees of not more than five at any point of time?
4. Whether in view of the impasse created by the defendants in operation of the bank account, the Managing Trustees may be authorized to operate the bank account of the Trust maintained with Punjab National Bank, Churu Branch in the State of Rajasthan, along with any of the other Trustees?

This Court has considered the issues raised by the plaintiff in paragraph 19 as mentioned above and this Court finds that issue nos.1 and 3 are with respect of the Trust Deed but the issue nos.2 and 4 are with regard to the allegations upon the defendant no.1 and other defendants.

Learned counsel for the plaintiff submits that the plaintiff is having the documents to show that the physical condition of the defendant no.1 is not good and as such he cannot be allowed to continue as trustee but at the time of hearing of the parties, learned counsel for the plaintiff submits that he is not pressing the issue nos.2 and 4 and he is only pressing for hearing of issue nos.1 and 3.

Considering the above, this Court finds that issue nos.1 and 3 are with regard to interpretation of the Trust Deed, thus, for the interpretation

of the Trust Deed, no written statement is required as the counsel for the plaintiff has submitted before this Court that the plaintiff is not pressing the issue nos.2 and 4. Accordingly, in view of the submission made by the counsel for the plaintiff, the applications filed by the defendant nos.1, 3 and 4 and the defendant no.2 being GA/1/2025 and GA/2/2025 for extension of time to file written statement are dismissed.

Let the suit being CSOS/6/2024 be fixed under the heading "Adjourned Motion" on 12th February, 2025 for hearing with respect of issue nos.1 and 3 as mentioned in paragraph 19 of the suit.

(KRISHNA RAO, J.)

RS