

OD-5

ORDER SHEET

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

IA No. GA/1/2025
In CS/95/2025

OMDAYAL EDUCATIONAL AND RESEARCH SOCIETY AND ANR.
-VS-
SHYAM SUNDAR AGARWAL AND ORS

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: August 27, 2025.

Appearance:

Mr. Soumendra Nath Mookherjee, Sr. Adv.
Mr. Ratnanko Banerji, Sr. Adv.
Mr. Deepan Kr. Sarkar, Adv.
Mr. Dinabandhu Das, Adv.
Mr. Shubhrojyoti Mookherjee, Adv.
Mr. Yash Singhi, Adv.
Mr. Naman Chowdhury, Adv.
Mr. Samriddha Sen, Adv.
Ms. Deepti Priya, Adv.
Mr. Dipayan Das, Adv.
... for the plaintiffs

Mr. Surajit Nath Mitra, Sr. Adv.
Mr. Debanjan Mandal, Adv.
Mr. Chayan Gupta, Adv.
Ms. Iram Hassan, Adv.
Mr. Pourush Bandopadhyay, Adv.
Ms. Yukti Agarwal, Adv.
Mr. Himanshu Bhawsinghka, Adv.
... for Omdayal Educational and Research Society

Mr. Abhrajit Mitra, Sr. Adv.
Mr. Debanjan Mandal, Adv.
Mr. Dharendra Nath Sharma, Adv.
Mr. Sarvapriya Mukherjee, Adv.
Mr. Satadeep Bhattacharyya, Adv.
... for the defendant nos.1, 2 and 3

Mr. Ranjan Bachawat, Sr. Adv.
Mr. Debanjan Mandal, Adv.
Mr. Satyaki Mukherjee, Adv.
Mr. Bhavesh Garodia, Adv.
Ms. Iram Hassan, Adv.
Ms. Yukti Agarwal, Adv.
Mr. Himanshu Bhawsinghka, Adv.
... for the defendant no.4

Mr. Jishnu Chowdhury, Sr. Adv.
 Mr. Abhidipta Tarafdar, Adv.
 ... for the defendant no.5

Mr. Joyaip Kar, Sr. Adv.
 Mr. Abhijit Sarkar, Adv.
 Mr. Sourodeep Banerjee, Adv.
 ... for the teachers

Mr. Sabyasachi Chowdhury, Sr. Adv.
 Mr. Rajarshi Dutta, Adv.
 Mr. Shounak Mukhopadhyay, Adv.
 Ms. Pooja Sah, Adv.
 ... for the intervenor

The Court: This is an application filed in a suit involving the administration and management of a society registered under the West Bengal Societies Registration Act, 1961 (hereinafter referred to as the said society). The society operates educational institution in Kolkata, Durgapur and other places in West Bengal.

The plaintiff seeks an ad interim order of stay of the resolution of the Governing Body of the society taken at its meeting held on 18th August, 2025. On behalf of the plaintiff it was submitted that the meeting could not have been convened in the manner it has been done and the resolution taken therein could not also have been passed. The convening of the meeting and the resolutions adopted therein according to the plaintiffs are contrary to the regulations of the plaintiff society and the provisions of 1961 Act. The resolution taken at the meeting of the Governing Body held on 18th August, 2025 should not be allowed to be enforced or acted upon. Mr. S.N. Mookherjee, learned Senior Advocate also explains the background for holding such meeting in contravention of legal procedure and the fight between plaintiff no. 2 and his father-in-law being the defendant no. 1 and the pro-forma defendants no. 5 and 6

arising out of the fact that the defendant no. 1 intends to take control over the society.

The plaintiffs also contended that the plaintiffs have sought for certain reliefs against non-parties to the suit. The plaintiffs have no objection if the Court adds such non-parties as defendants to the suit by applying the provisions of Order I Rule 10(2) of the Code of Civil Procedure (in short "CPC"). The plaintiffs have concluded their submissions.

Mr. S. N. Mitra, Learned Senior Advocate assisted by Mr. Chayan Gupta, Advocate have appeared and submitted that the suit as instituted is not maintainable. The plaintiff no.2 was never authorized by the Governing Body to verify and affirm the plaint and institute the suit. The plaintiff no.2 only by virtue of the Secretary of the society could not have filed the suit unless he was specifically authorized by the Governing Body of the society to do so as per the regulations of the society. Moreover, the resolutions taken in the meeting of the Governing Body held on 18th August, 2025 clearly show that Mr. Anand Kumar Gupta is authorized by the Governing Body to initiate proceeding and defend on behalf of the society. Unless the said resolution is set aside, the plaintiff no.2 could not have instituted the suit. In fact though Anand Kumar Gupta, the society has already filed an application for rejection of plaint and dismissal of the suit. Furthermore, he submitted that meeting of the Governing Body held on 18th August, 2025 was held pursuant to a notice given to the President as per the regulations of the society whereunder the President is authorized to call emergency meeting. The emergency meeting can be

called as per the regulations of the society by giving 24 hours which had been complied with. The plaintiff no.2 and the proforma defendant participated in the said meeting without any protest. The meeting had the requisite quorum and the minutes passed therein was duly signed by the President as the Chairman of the said meeting. He also submitted that the relief claimed in prayer (a) of the plaint is an individual relief claimed by the plaintiff no.2 and the proforma defendant nos.5 and 6. The cause of action for such individual relief cannot be clubbed with the relief sought in respect of the administration of the society which is based on different set of facts.

Mr. S. N. Mitra further refers to the letter at pages 65 and 67 of the petition to demonstrate that specific allegations were made against the few employees of the society to the Secretary (plaintiff no. 2) for initiating disciplinary proceeding against the said employees and as such, it cannot be said as contended by the plaintiff no. 2 that the defendant no.1 being the President did not provide any particulars. By referring to the reply at page 67 it is further contended that it is apparent from the letter that the plaintiff no.2 was ventilating his individual cause and grievances in the garb of not holding disciplinary proceeding against the employees at the request of the President (defendant no.1). It is, therefore, submitted that no interim order should be passed at the instance of the plaintiff no.2 representing the plaintiff no.1 even if it is held that the suit is maintainable.

Mr. Abhrajit Mitra, Learned Senior Advocate on behalf of the defendant nos.1, 2 and 3 commenced his argument but the same could not be concluded.

Let this matter appear under the heading "For Orders" on 28th August, 2025.

Before Mr. Abhrajit Mitra resumes his argument, Mr. Jishnu Chowdhury, Learned Senior Advocate, representing the proforma defendant nos.5 and 6 who is supporting the plaintiff no.2 shall make his submissions so that the defendant nos.1, 2 and 3 can give a consolidated reply.

(ARINDAM MUKHERJEE, J.)