FD-2544 58 × 2·10 116 -112 -22 | 5 | 13



-16.5.13 n.5.13 27.5.13 27.5.13 27.5.13

PETITION: ED 2544/13

District: South 24 Parganas

In the Court of the District Judge at Alipore.

Misc. Case No. 35 of 2012

Present: Sri S. Ahluwalia District Judge

Sri Pronay Kumar Basak and 3 others.....petitioners.

Order No. 13 dated 10.5.2013

The shebaits/petitioners file hazira. They file documents by a firisthi.

Heard the learned advocate for the Shebaits/petitioners.

This case has its origin in an application under section 34 of the Indian Trust Act, 1882 filed bythe shebaits/petitioners praying for permission to develop the debuttar properties mentioned in the schedules of the application and further permission to sell the newly constructed building(S) /flat(s) to the intending purchaser(s) and to create a fund for the maintenance and preservation of the existing building of the Deity Sri Sri Iswar Balaram Jiu Thakur situated at Kailash Dham of 7, Harish Chandra Paul Lane, Kolkata-700050.

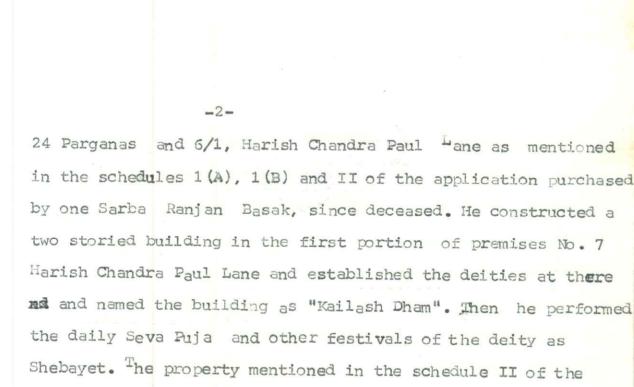
The fact of the case is that the premises No.7, Harish Chandra paul lane, police station Sinthi, District South





1000

in the s



application is a vacant land having an area of 5 Bighas 4

cottahs and 13 Chittaks more as or less.

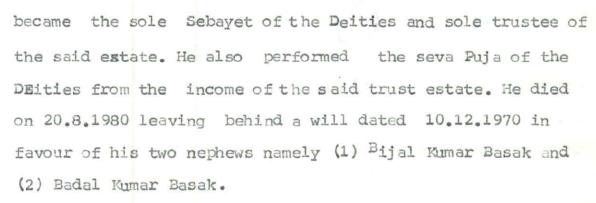
He created a registered deed of trust on 20.2.1959 in respect of the said properties mentioned in schedule *1(A), 1(B) and II including many others as mentioned in the paragraph No. 4 of the application and appointed himself as sole trustee of the deity. During his life time he was the sole shebait amd sole trustees of the said trust properties. He died on 2.6.1960 leaving behind his last will and testament dated 21.2.1959 and whereof he appointed his only son Biswa Ranjan Basak as sole Shebayet of the Deities.

After the death of the settler, his son Biswa Ranjan Basak



N an

. .



Numar Basak, they executed a scheme of management of the Debut-tar trust estates on 12.1.1996 and framed certain rules and regulations so that the seva Puja and other performance of the trust estate can be performed by their legal heirs smoothly. In the said scheme they appointed (1) Sri Pronay Kumar Basak, (2) Sri Utpal Kumar Basak, (3) Sri Swapan Kumar Basak all sons of Bijal Kumar Basak and (4) sri Subrata Basak S/o Badal Kumar Basak as the Shebaits of the Deities and trustees of the trust estate. Bijal Kumar Basak died on 1.6.1996 and Badal Kumar Basak died on 29.4.1998 hus the petitioners have become the shebaits and trustees of the deities and trust estates.

The property mentioned in the schedule II of the application is completely vacanthand having no sincome



. .

Ž.

le e

at all. A portion of those property had already been occupied by a local club. For eviction of the said club a Title Suit being its No.T.S. 101 of 2003 was filed before the Civil Judge Jr. Divn. 2nd Sealdah. The said suit was disposed off on compromise. The said club had surrendered the remaining vacant portion of 6/1 and 7, Harish Chandra Paul Lane in lieu of 5 Cottahs 10 Chitacks land at premises No.6/1, Harish Chandra Paul Lane and a registered compromise lease deed for 99 years had also been executed to that effect. As such there is still vacant land of 5 Bighas 4 cottahs 13 chittack inthe premises No.6/1, Harish Chandra Paul Lane.

The total land in the schedules 1(A) and 1(B) is 25 Cottha.

9 chittaks, i.e. 18405 sq. ft. The temple of the Deities is situated in the front portion of the premises No.7, Harish Chandra Paul Lane which is known as Thakurbari, measuring about 8085.49 sq.ft. There are two blocks viz. Block A and Block B. The front portion is in the Block A. The back portion of the said premises is Block B. Both the portions are in dilapidated conditions. A huge amount is required for the renovation/ reconstruction of the said buildings. But the Dei ties have no fund and also no income wherefrom such huge expenses shall



0, 0

App 4 miles

be paid out. Moreover, the kolkata Municipal Corporation has also declared the Thakurbari in the front portion of Block A of the said premises as a heritage building under Grade IIA. The C.M. C. also directed the shebaits to engage the empanelled conservation architect to prepare conservation proposal for re--toration of Thakur Dalan. The architect prepared restroration strategies and estimated a sum of Rs.80,50,826/- is required for a restoration, renovation and reconstruction of Thakurbari as on 12. 12.2010. As the Deities has no fund for expenses of such huge amount, the she baits proposed the K.M. C. for new development in the adjoining land i.e. in block B by demolishing the existing structures, constructions and to construct of new building (S)/flat(s) therein and also in the land of sche dule II of the application with a view to sell out the same and to create a fund from the profit wherefrom the cost of renovation, repairing of Thakurbari could be done. The K.M. C. also accepted the said proposal and requested the shebaits to prepare and to su-bmit the same by their lett-er No. PMU/047/11-12 d dated 4.7.2011.

Thereafter, the shebaits/petitioners with the help of the architect proposed and estimated that

Toole South 24 Parcent

Added to the property of the first of the contract of the cont

- a) The existing heritage building in Block A having 8085.49 sq.ft. may be renovated/repaired. The restoration cost of which would be R.80.50 lakhs(approx).
- b) In the Block B there are 32,303 sq.ft. space as per present K. M.C. bBuilding Rules and the total newly construction cost of building(s)/flat(s) thereon would be Rs.460.90 lakhs, As such total construction costs of Heritage Building, in Block A and new constructions in Block B would be Rs.541.40 lakhs (approx). The total sale price of of the new construction building(s)/flat(s) would be Rs.888.34 lakhs(approx) As such there would be a profit of Rs.346.94 lakhs(approx) and that would be invested in the debuttor estate of the Deities.
- c) Similarly, the measurement of the property as mentioned in schedule II of the application is 75465 sq.ft. As per K.M.C. Building Rules total 1.66.480 sq.ft. would be the sanction area and the total construction cost would be Rs. 2212.25 lakhs (approx.). The total sale price of the said premises would be Rs. 4578.20 lakhs (approx.). As such there would be a profit of Rs. 23,65.95 lakhs (approx.) and that would be invested in the debuttor estate of the Deities.

As such the total profit from both the schemes would be

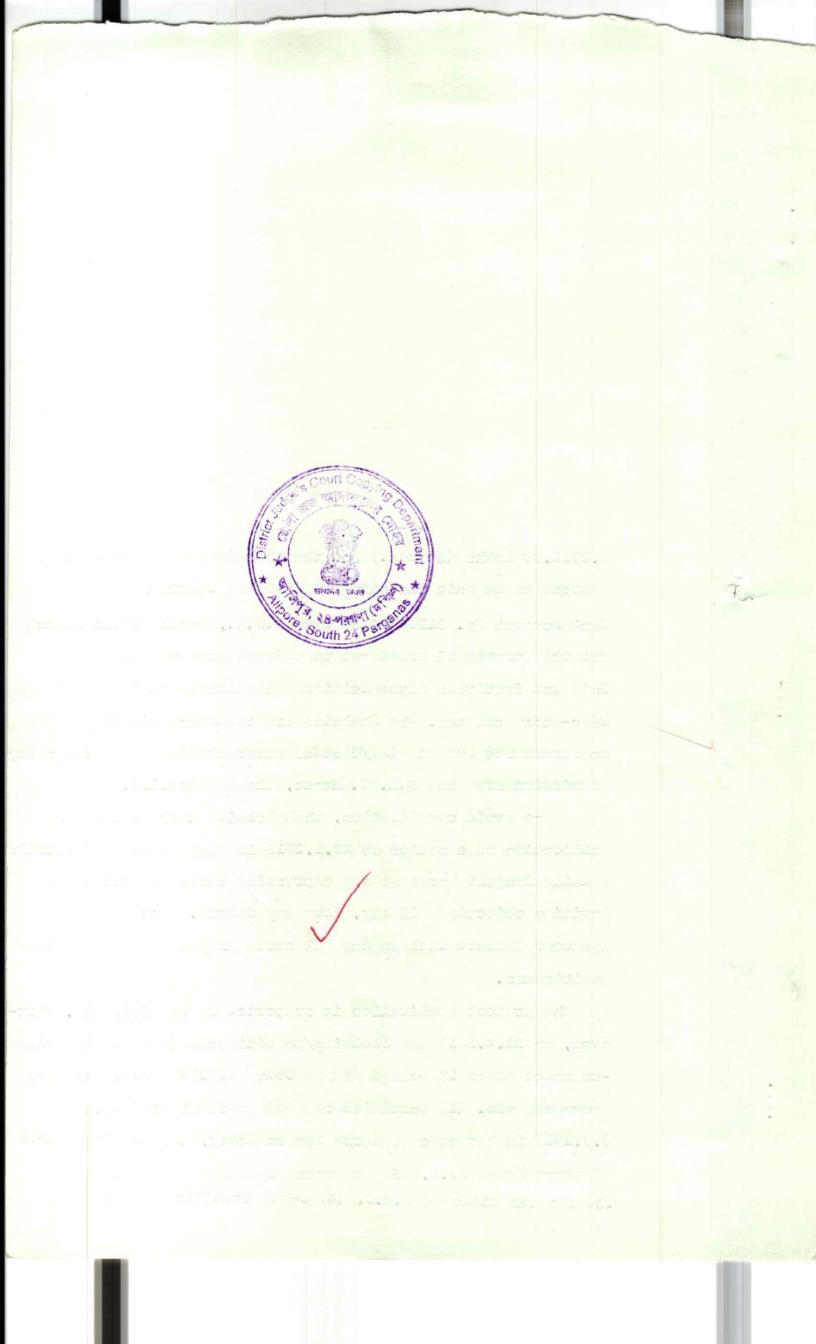


Rs. 2712.89 lakhs (approx.) and the shebaits/petitioners are agreed to deposit the said profit inthe Debuttor savings

Bank Account No. 31504994136 with S.B.I., South Sinthi Branch for the purpose of preservation maintenance and daily seva Puja and festivals of the Deities and also to maintain the Debu-ttor estates. The Shebaits are ready and willing to construct the building(S)/flat(s) after obtaining the necessary permission from the K.M. C. Hence, the application.

To avoid complication, the shebaits took steps for publication of a notice on 28.1.2013 in the "Bartaman" Patrika a daily Bengali newspaper, expressing their intention and inviting objection if any, from any corner. But no body has come forward challenging wit such prayer of the shebaits/petitioners.

The present application is supported by an affidavit, Moreover, on 23.4.2013 the Shebaits/pe titioners filed their eviden
-ce under order 18 Rule 4 of the Code of Civil Procedure and
documents viz. (1) Certified copy of purchase deed dated
8.3.1929 in the name of Sarba Ranjan Basak, (2) Priginal deed
of trust dated 20.2.1959 executed by Sarba Ranjan Basak
(3) Two tax bills of K.M.C. (4) Death certificates of Sarba



Ranjan Basak, Viswa Ranjan Basak, Bijal and Badal Kumar Basak (5) protated wills of Sarba Ranjan Basak, Biswa Ranjan Basak, (6) Deed of management of Trust exected by Bijal and Badal Kumar Basak, (7) Letter issued by the K.M. C. declaring the Thakurbari as Heritage building (8) Strategic report of the architect, (9) Letter of acceptance dated 6.6.2011 by K.M..C. and (10) Bavings Bank Pass Book in the name of Deities of S.B.I.

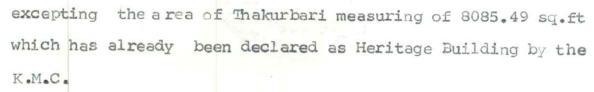
Having perused the application, & evidence and other documents mentioned above, this court is of view that the prayer of the shebaits/peritioners for permission to & develop the debuttar properties mentioned in the schedules of the application and further permission to sell the newly constructed building /flat(s) to the intending purchaser(s) and to create a fund for the maintenance and preservation of the existing building of the Deities should be required to be allowed for the benefit and welfare of the Deities.

Hence it is,

ORDERED

That the Misc. Case No. 35 of 2012 is allowed. The Shebaits/
petitioners, are m permitted to get the property mentioned in
the schedules of the application developed by themselves,





They are also permitted to sell out the building(s)

/flat(s) after construction as per Rules of the K.M. C. to the
intending pur chaser(s) on condition that prior to execution
of proposed sale deed(s) to the intending pur chaser(s)

20% of the profits of each flat after adjustment of the
proportionate costs of construction and renovation cost of the
Heritage building shall have to be proposited in the
name of the Deities interm deposit scheme with the S.B.I. sout

-h Sinthi Branch as reserve fund.

The draft Kobala(s) shall have to be approved by this court and the said receipt shall have to be shown at the time of approval of the draft Kobala(s). A statement of account shall have to be shown as and when it will be directed.

Liberty is also given to the shebaits to collect the interest from the said Reserve Fund on half-yearly basis but in no circumstances the principal amount of reserve fund shall be withdrawn without permission of this court.

D/C by me. Sd/S.Ahluwalia D.J. Sd/S.Ahluwalia District Judge . South 24 Pgs.

Roun Poddon 24. P. D







Compared by Outain

Comp. Clerk ZY
District Judge's Court
Alipore, 24-Pargns (5)

Copying Department, Alipore
District Judge's Court,
Accepted u/s 19 Act. 1 of 1800