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EDX - 4957/18

In the court of the Ed, District Judge at Alipore
Misc case - 357/17

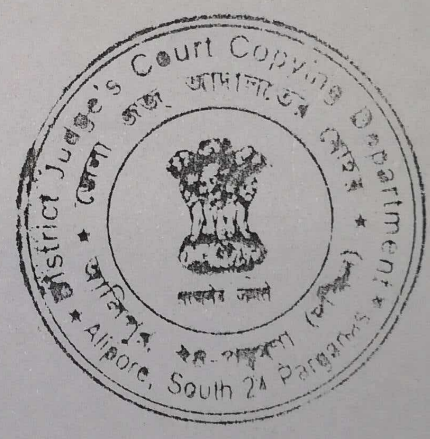
Smt Smt Pswar Lakshmi Mata Thakurani
Estate represented by Smt Debapriya Samyal
@ Debapriya Kumar Sangal And ors.

PH

Schedule of cost of the copy

Application.....	5.02
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Tracing fees.....	
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15.02



IN THE COURT OF THE DISTRICT JUDGE, SOUTH 24-PARGANAS AT ALIPORE

Misc Case No. 352/17

Sree Sree Iswar Lakshmi Mata Thakurani Estate

Order No. 11, dated 28.8.2018 represented by Sri Debapriya Sanyal & Debapriya Kumar Sanyal & others.

The petitioners Sri Debapriya Sanyal and three other Sebaitis of the Deity Sree Sree Maa Lakshmi Mata are represented by their learned Lawyer.

The case record is put up today for passing order.

The instant case arises out of an application u/s 34 of the Indian Trusts Act.

Briefly stated, the case of the petitioners is as follows:

The building standing on 9 cottahs, 1 chittak, 14 sq. ft. (more or less) in respect of premises No. 13C, Deodhar Street, P.S. Ballygunge, Kolkata - 700019 shall hereinafter be called as the case building or case property. Smt. Padmasana Devi was the owner of the case building and she possessed the same during her life time. She consecrated the case property by executing an Arpannama dated 29.3.1945 in favour of the Deity Sree Sree Maa Lakshmi Mata (Sree Sree Iswar Lakshmi Mata Thakurani). She appointed her husband Pramatha Chandra Sanyal as the first Sebait. After the death of Pramatha Chandra Sanyal, his sons Prafulla Kumar Sanyal and Prabhat Kumar Sanyal became the Sebaitis of the Deity.

By way of inheritance and by mutual consent/understanding, the petitioners have now become the Sebaitis of the Deity.

The case building is in dilapidated condition. For the overall benefit of the Deity and to increase the income of the property, the petitioners seek permission of this court to develop the case property. Hence, the case arose.

I have perused the evidence of P.W. 1 Debapriya Sanyal and the documents which have been marked as Exts. 1 to 14.

From the recitals of the Arpannama (Ext. 1), I find that the Trust created by Smt. Padmasana Devi is a private Trust and the case property/building involved in the Arpannama is a private Debutter property.


According to Savings Clause of Section 1 of the Indian Trusts Act, Section 34 of the Indian Trusts Act does not apply to private trust and private Debutter property.


In view of the above, the instant case should be dismissed as not maintainable u/s 34 of the Indian Trusts Act.

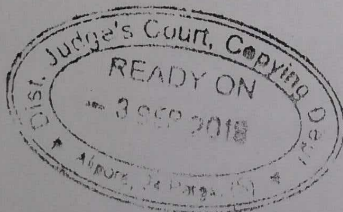
But, it is made clear that the petitioners do not need any permission from this court to transfer or develop the building/case property for the overall benefit of the Deity.

Accordingly, it is, **ORDERED**, that the case be dismissed as not maintainable u/s 34 of the Indian Trusts Act.

Dictated & corrected by me


District Judge


District Judge



Examined and found to be a true
copy and correctly stamped
Rameswar Misra

Alipore Copying Clerk
Date *3/9/18* Dist. Judge's Court

Certified to be true Copy
Indrakanta Das
Head Copying Clerk
District Judge's Court
Alipore
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