

09
150-17-2015

Suit No. 917 of 1941

In the High Court of Judicature at fort William in Bengal

Ordinary Original Civil Jurisdiction

1) Tarak Nath Paul. 2. Sambhu Nath Paul

3. Mritunjoy Paul alias Amar Nath Paul

ks { 4. Bholu Nath Paul 5. Khoka 6. Kalyani Paul (alias Chaya Paul

7. Mira Paul 8. Irani Paul the last six

named persons being minors by their next

friend and eldest brother the Plaintiff

Tarak Nath Paul. 9. Purna Chandra Paul

father of the abovenamed persons. 10. Smt.

Rashmoni Dasi wife of the said Purna Chandra Paul

Paul all at present residing at No. 77

Beniatolla Street in Calcutta within the

said jurisdiction, Landholders.

...Plaintiffs.

Versus

1. Sir Hari Sankar Paul Kt.,

2. Hari Mohan Paul, Trustees under the

Deed of Settlement dated May 31, 1920

(hereinafter mentioned) residing at No.

92, Sova Bazar Street in Calcutta within

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18

- 2 -

the said jurisdiction, 3. Hari Dhone
Dawn third trustee under the said Deed
residing at No. 282, Upper Chitpore Road
in Calcutta within the said jurisdiction

4. Smt. Sushila Bala Dassi (Widow of
Bhut Nath Paul deceased) residing at

P-2
Expt
19.9.15
No. 77, Beniatolla Street, aforesaid

... Defendants.



HIGH COURT OF JUDICATURE AT FORT WILLIAM IN BENGAL. 30. MAY 1941.

Suit No. 117 of 1941.

In the High court of Judicature at fort William in Bengal.

Ordinary Original Civil Jurisdiction.

x filed before me
Tarak Nath Paul
is 4 day of June, 1941.

Before me
w
Occurrence

(1) Tarak Nath Paul. 2. Sambhu Nath Paul
3. Mritunjoy Paul alias Amar Nath Paul
4. Dhola Nath-Paul. 5. Khoka. 6. Kalyani Paul (alias Chaya Paul)
7. Mira Paul. 8. Irani Paul the last six named persons being minors by their next friend and eldest brother the plaintiff Tarak Nath Paul. 9. Furna Chandra Paul father of the abovenamed persons. 10. Sm. Rashmoni Dasi wife of the said Furna Chandra Paul all at present residing at No. Beniatolla Street in Calcutta within the said jurisdiction, landholders.

...Plaintiffs.

versus

1. Sir Hari Sankar Paul. kt.,
2. Hari Mohan Paul. Trustees under the deed of settlement dated May 31, 1920 (hereinafter mentioned) residing at No. 92, Sova Bazar Street in Calcutta within the said jurisdiction. 3. Hari Dhona - Dawn third trustee under the said Deed, residing at No. 282, upper Chitpore road in Calcutta, within the said jurisdiction.

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4. Sm. Sushila Bala Dassi (widow of -
Bhuti Nath Paul deceased) residing at
No. 77, Boniatolla Street aforesaid.

.....Defendants

We, Tarak Nath Paul, Sambhu Nath Paul, Mr. Mritunjay -
Paul alias Amar Nath Paul, Bhola Nath Paul, Khoka, Kalyani
Paul alias Chaya Paul, Mira Paul, Irani Paul, Purna Chandra
Paul and Sm. Rashmoni Dassi, do hereby nominate and appoint -
Mr. B. K. Bose, Attorney at Law of No. 7, Old Post Office -
Street, Calcutta to prosecute the above suit on our behalf -
and to do all such acts and deeds as may be requisite in the
premises and we do hereby undertake and promise to pay to the
said Mr. B. K. Bose all and every such fees of counsel ac-
tually paid by him and all and every such other charges costs
and expenses which he may or shall from time to time pay -
incur or otherwise be entitled to in and about the premises.

Dated this 7th day of June, 1941.

Witness:-

Tarak Nath Paul

Explained by me

Sm. Rashmoni Dassi श्रीमती राजमोनि दासी

l. Babu Purna Chandra Shambhu Nath Paul

il.

Purna Chandra Paul.

Mritunjay Paul alias Amar
Nath Paul, Bhola Nath

Paul, Khoka, Kalyani

Paul alias Chaya Paul,

Mira Paul, Irani Paul

by their eldest brother
and next friend,

Tarak Nath Paul.

Suit No. of 1941.

in the High Court of Judicature at Fort William in Bengal.

Ordinary Original Civil Jurisdiction.

*Child A referred to in the
said affidavit of Tarak
Paul affirmed this
day of June, 1941.*

Tarak Nath Paul & Others:

-vs-

Sir Hari Sankar Paul & Others:

Before me

Commissioner

CONCISE STATEMENT.

The plaintiffs sue for removal of the defendants 1, 2 and 3 from the Office of the trustees of the Deed of Settlement dated May 31, 1920; appointment of new trustees in their place; direction on the new trustees or the Receiver to be appointed by the Court as aforesaid to take proper steps for partition and accounts; alternatively, that the plaintiffs or such of them as the court may think fit be given leave to use the name of the said trustees for taking over steps for partition and account; account, discovery and administration of the trust estate by and under the directions of the court that account may be taken on the basis of wilful default and neglect and if necessary; Receiver; such further order may be made, directions given, account taken as in the facts the

plaintiffs

P3
559

plaintiffs may be entitled to; that the defendants do pay
the costs of the suit to the plaintiffs.

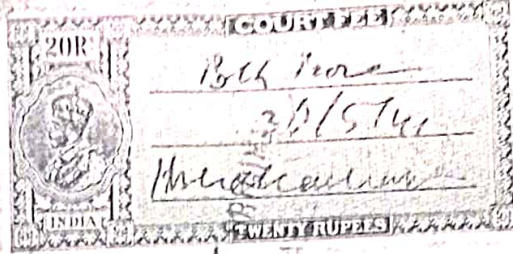
Dated this 4th day of June - 1941.

B. B. B. B.
PLAINTIFFS' ATTORNEY.

7, Old Post Office Street,

Calcutta.

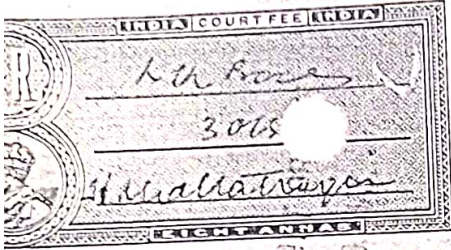
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Suit No. _____ of 1941.

in the High Court of Judicature at Fort William in Bengal.

Ordinary Original Civil Jurisdiction.



- (1) Tarak Nath Paul.
- (2) Sambhu Nath Paul.
- (3) Hritunjoy Paul alias Amar Nath Paul.
- (4) Bholu Nath Paul.
- (5) Khoka.
- (6) Kalyani Paul (alias Chaya Paul).
- (7) Mira Paul.
- (8) Irani Paul.

the last six named persons being minors by their next friend and eldest brother the plaintiff Tarak Nath Paul.

(9) Purna Chandra Paul, father of the abovementioned persons.

(10) Smt. Kashmoni Dassi wife of the said Purna Chandra Paul,

P5
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all at present residing at no.77, Beniato-
la Street in Calcutta within the said ju-
risdiction, landholders Plaintiffs

VERSUS

(1) Sir Hari Sankar Paul, Kt.,

(2) Hari Mohan Paul,

trustees under the deed of settlement -
dated May 31, 1920, (hereinafter mentioned)

residing at no.92, Sova Bazar Street in
Calcutta within the said jurisdiction:

(3) Hari Dhona Dawn third trustee under
the said Deed, residing at No:282, Upper
Chiptore Road in Calcutta, within the said
jurisdiction:

(4) Sm. Sushila Bala Dassi (widow of Bhut
nath Paul deceased) residing at no.77, -
Beniatolla Street, aforesaid... Defendants

The Plaintiffs state as follows : -

1. The relationship between the plaintiffs and
the defendants 1, 2 and 4 will appear from a pedigree

annexed

P6
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annexed to the plaint and marked "A". The defendant -
Haridhono Daw is the father in law of the plaintiff -
Purna Chandra Paul.

2: Butto Kristo Paul, a wealthy Hindu merchant of
Calcutta owning considerable business interests and land-
ed properties, within and outside the aforesaid jurisdic-
tion, died on or about the 12th June, 1914, leaving
three sons Bhut Nath Paul since deceased and the defen-
dants Hari Sankar Paul (now Sir) and Hari Mohan Paul -
(defendants 1 and 2).

3: Before his death the said Butto Kristo Paul
executed a deed of Trust dated the 30th August, 1910,
whereby he conveyed certain considerable immoveable -
properties to his sons the said Bhut Nath Paul and the
defendant Hari Sankar Paul upon trust for the said Butto
Kristo Paul for life and from and after his death as to
an undivided one equal fourth part or share thereof upon
trust for the said Bhut Nath Paul absolutely, as to one
other undivided one equal fourth part or share of the

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P7
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said properties for the defendant Hari Sankar Paul absolutely,
as to one other undivided one equal fourth part or share of the
said properties for the defendant Hari Mohan Paul absolutely,
and as to the remaining undivided one equal fourth part or share
of and in the said properties upon trust for the plaintiff -
Purno Chandra Paul and his brothers Gour Hari Paul, Nitai Charan
Paul and Kanailal Paul absolutely and in equal shares.

4. The said Butt Kristo Paul also left a will dated
the 30th January, 1914, whereby after granting certain lega-
cies he gave the rest and residue of his estate to his said -
three sons, namely the said Bhut Nath Paul, the defendants -
Hari Sankar Paul and Hari Mohan Paul, in equal shares. The -
executors duly proved the will on or about 4th October, 1915.

5. The said Bhut Nath Paul died in or about May,
21, 1920, intestate, leaving a widow the defendant Sm. Sushila
Bala Dass (defendant no. 4) and five sons, the plaintiff -
Purno Chandra Paul and the said Gour Hari Paul, Nitai Charan
Paul, Kanai Lal Paul and one Pashupati Nath Paul, his sons -
and heirs according to Hindu Law. Letters of Administration
to his estate were obtained by the defendant Sushila Bala -

Sushila Bala

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559

Sushila Bala Dassi and the said Gour Hari Paul, nitai
Charan Paul, Kanai Lal Paul, on or about 4th August, 1922.

6. The plaintiff Purna Chandra Paul thus became entitled to a share of the estate of the said Butto Kristo Paul under the deed of settlement dated 30th August, 1910, and by inheritance as an heir of the said Bhat Nath Paul. He is a person of weak intellect and has always been easily dominated by others and in particular by the defendant Hari Dhono Dawn:

7. On May 31, 1920, the plaintiff Purna Chandra Paul executed a Bengali Deed of settlement in respect of his share in all the said several family properties and businesses to which he became entitled as aforesaid, - - (hereinafter called the said trust estate): A copy of the English translation of the said Deed of trust is annexed hereto and marked "B":

8. The trustees named in the said Deed of Settlement were the defendant Hari Sankar Paul, the defendant Hari Dhono Dawn and one Kirti Chandra Dawn. Kirti Chandra Dawn died on or about 30th July, 1924, and in his place

29
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place the defendant Hari Mohan Paul has been acting as a trustee. The present trustees are the defendants 1, 2 and 3.

9. The defendants Sir Hari Sankar Paul and Hari Mohan Paul have remained in possession, management and control of the said trust Estate. They have not separated the said trust estate from the estate (hereinafter called the Parent Estate) of which the said trust estate is a part or share. The defendant Haridhone Dawn was excluded from management and control of the trust estate.

10. Shortly before March, 1925, the defendant Hari Dhone Dawn caused the removal of his daughter Sh. Rashmoni and her children to his own residence aforesaid.

11. On or about March 30, 1925, the plaintiff Purno Chandra Paul under the influence and at the instigation of the defendant Hari Dhone Dawn instituted a suit in this Court (being suit no. 887 of 1925) against the defendants Hari Sankar Paul, Hari Mohan Paul and Hari Dhone Dawn -

inter alia for partition and accounts of monies received by them as trustees under the deed of settlement of 1920,

appointment

P10
559

appointment of receiver etc. but eventually, a compromise was reached between the two principal fighting parties, - namely, the defendant Hari Dhono Dawn on the one hand and the defendant Hari Sankar Paul on the other hand and on the terms of compromise made between them a decree was passed on the 30th April, 1926, settling the suit between the - plaintiff and the defendants. A copy of the said decree is annexed hereto and marked "C".

12. Thereafter on the 3rd August, 1928, by consent an order was made in the said suit no: 337 of 1925 a copy whereof is annexed hereto and marked "D".

13. On the 10th September, 1929, the defendant Hari Dhono Dawn represented to the Arbitrators appointed by the aforesaid consent decree that he had a conversation with the defendant Sir Hari Sankar Paul with a view to settle finally all matters relating to the interests of the plaintiff Purno Chandra Paul. On such representation the Arbitrators did not proceed further and in fact no award has been made.

14. On the 24th November, 1930, the defendant -

Pashupati

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Pashupati Nath Paul, then a minor, by his next friend Biswanath Dutt, instituted a suit (2162 of 1930) in this Court for a declaration that the consent decree and order made in the said suit no. 987 of 1925 dated respectively the 30th April, 1926 and 3rd August, 1928 were void and in-operative for setting aside the same and for other reliefs. Biswanath Dutt is a sister's son of defendants 1 and 2 and was and is their creature.

15. The defendant Hari Dhong Dawn filed a written statement (inter alia) stating therein that the consent decree made in suit no. 987 of 1925 was invalid and in-operative, and that he had not entered appearance, nor defended the said suit no. 987 of 1925, as he alleged he had no knowledge of the affairs of the trust estate.

16. Thereafter another suit namely suit no. 644 of 1931 was instituted in this court. In this suit, the plaintiffs were (1) Shri. Raghunani Dasari, (2) Tarak Nath Paul, (3) Sambhu Nath Paul, (4) Prithwijoy Paul alias Amar Nath Paul (then called Khoka), (5) Naya Paul, -

(6) Mira Paul (alias Chaya), (7) Arani Paul (then called -
Kbuki) the last six being then minors who sued through -
their next friend Chandra Nath Datta. At that time all the
plaintiffs were residing with Hari Dhona Datta at Beohar.
The said Chandra Nath Datta was and is the only son of the
defendant Hari Dhona Datta and was living in the same house
with his father and the plaintiffs.

17. The defendants in the said suit were (1) the
defendant Sir Hari Sankar Paul, (2) the defendant Hari -
Nath Paul, (3) the said Pashupati Nath Paul, then a minor,
(4) the defendant Sri. Sushulabala Datta, (5) the plaintiff
Purna Chandra Paul and (6) the defendant Hari Dhona Datta.

18. In the plaint it was alleged that the said defen-
dants (as trustees) had committed diverse breaches of trust,
acts of waste in respect of the said trust estate and bene-
fited themselves at the expense of the beneficiaries under
the said Deed of Settlement of 1920.

P13
559

19. In the said suit No. 644 of 1931, a joint written statement was filed on the 20th May, 1931, on behalf of the defendants Sir Hari Sankar Paul and Hari Mohan Paul; in the written statement it was (inter alia) stated :-

(a) That the trust estate had been properly administered and managed.

(b) That the properties belonging to the said trust estate had been kept in good and substantial repairs and by reason of large additions and improvements to the parent estate, the said trust estate had considerably appreciated in value.

(c) That the businesses in charge of Sir Hari - Sankar Paul and Hari Mohan Paul including the business of Messrs. Butto Kristo Paul & Co., had been - greatly expanded and improved since the year 1920 and had shown steady profits inspite of the then general trade depression.

20. By the year, 1934, there were thus three suits pending in this court (1) Suit No. 387 of 1925 instituted by Purna Chandra Paul at the instigation of Hari Dhona Dawn

P14
559

(ii) Suit no. 2162 of 1930 by Pashupati Nath Paul, then a minor, at the instance of Sir Hari Sankar Paul and (iii) Suit No. 644 of 1931 by Sri. Raghunath & Others at the instance of Hari Dhono Dawn again. The plaintiffs believe and charge that the first mentioned suit was instituted as the defendant Hari Dhono Dawn had been excluded from the management of the Trust Estate, the second mentioned suit was instituted as a result of some understanding between the defendant Sir Hari Sankar Paul and the defendant Hari Dhono Dawn whereby the defendant Hari Dhono Dawn expected to receive some benefit for himself and the third mentioned suit was filed again at the instance of Hari Dhono Dawn owing to the defendants Hari Dhono Dawn and Sir Hari Sankar Paul having fallen out.

21. In 1934 all the three suits were settled by consent decrees to which the plaintiffs shall refer at the hearing. The said terms were detrimental to the interests of the minors. One of the terms was that the Trustees account upto date had been accepted.

In the said three suits the interests of the

next

P15
SSG

next friend and guardian ad litem were adverse to those of the minors they represented and the settlements were made without any regard to the interest of the minors, as will appear from the pleadings and proceedings themselves.

22. No examination in fact was made of the accounts nor any enquiry made into the breaches of trust, acts of waste, etc. particulars whereof had been set out in the plaint in suit no. 644 of 1931.

23. The plaintiff Tarak Nath Paul attained majority in March, 1938; the plaintiff Sambhu Nath Paul attained majority in September, 1940. The plaintiff Kirtunjoy Paul alias Amar Nath Paul has attained the age of 16.

24. The maintenance payable to the plaintiff Sm. Rashmoni pursuant to an order made in suit No. 644 of 1931 under the deed of trust of 1920 used to be received on behalf of the plaintiff Sm. Rashmoni by the defendant Hari Dhona Daw and/or his son the said Chandra Nath Daw and spent for their own purpose save as to a portion - thereof required for the maintenance of the plaintiffs. The plaintiff Tarak Nath Paul began to receive on behalf

his mother the plaintiff Sm. Rashmoni the maintenance as
and from May, 1934, whereupon there commenced an estrangement
of feeling between the plaintiff Tarak Nath Paul and the de-
fendant Hari Dhoni Dawn who thereupon asked the plaintiffs to
remove to their family dwelling house. The plaintiffs however
were able to stay on in the house of the defendant Hari Dhoni
Dawn due to the kindness and affection of the said defendant
Hari Dhoni Dawn's wife. She died about 2 years ago. There-
after there was constant quarrel between the plaintiffs Tarak
Nath Paul and Sambhu Nath Paul on the one hand and the defen-
dant Hari Dhoni Dawn and his son Chandra Nath Dawn on the -
other hand, as the father and son found that it was not - -
possible for them to benefit themselves further at the expense
of the plaintiffs. About 8 months ago the plaintiffs left the
house of the defendant Hari Dhoni Dawn and came to live in
their family dwelling house at No. 77, Boniatolla Street.

25. Ever since their return to the family dwelling
house as aforesaid the plaintiffs have been badly treated
and molested by the defendants Sir Hari Senkar Paul and Hari
Mohan Paul in every possible way, the said Panai Lal Paul
acting at their instigation.

Particulars

P17
SSG

Particulars of bad treatment and molestation are

as follows : -

- (a) The plaintiffs have been prevented from dining in the common dining room.
- (b) Durwans have been posted in all parts of the house to prevent the plaintiffs from using the drawing room, library, bath room, etc.
- (c) These Durwans under instructions use abusive and insulting language to the plaintiffs and annoy the plaintiffs in various petty ways namely by cutting off the wires of the wireless, preventing them from using tap water etc.
- (d) On or about 12th March, 1941, the defendant - Karan Lal Paul at the instigation of the defendants Sir Hari Sankar Paul and Hari Mohan Paul threatened to assault the plaintiff Tarak Nath Paul. The situation was so serious that the said plaintiff was compelled to lodge a complaint with the police.
- (e) The defendant Sir Hari Sankar Paul and Hari

Mohan

P18
SSG

Rohan Paul was constantly abusing the plaintiffs
and asking them to leave the family dwelling house.

26. By letters plaintiffs have on various dates
between 21st April, 1941 and 15th May, 1941 called upon
the defendants Sir Hari Shankar Paul and Hari Rohan Paul
as trustees of the said trust estate.

(1) to separate the said trust estate from the
parent estate;

(2) to render a true and faithful account of the
trust estate.

27. The defendants Sir Hari Shankar Paul and Hari
Rohan Paul after making all sorts of frivolous excuses -
have ultimately agreed to separate the trust estate from
the parent estate but maintain that after the separation
is effected they would hand over the trust estate to such
person or persons as the Court would nominate and that -
until such nomination no question of appointment of new
trustees arose.

The plaintiffs have been advised and submit

that

P19
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that until and unless new trustees are appointed, having regard to the conflicting interest of the beneficiaries and the trustees, no proper and impartial partition can be made.

28. The business of Messrs. Butto Kristo Paul & Co., have been formed into several private Limited Companies. Sir Hari Sankar Paul is the Governing Director, Mr. Hari Mohan Paul is a Managing Director, Gour Hari Paul is another Managing Director, Nital Charan Paul is another Director, Kanallal Paul is another Director and Pashupati Nath Paul is another director. In fact Sir - Hari Sankar Paul by giving benefits and giving the - - appointments aforesaid to his brother the defendant Hari Mohan Paul and his nephews the defendants Gour Hari - Paul, Kanai Lal Paul, Nital Charan Paul and Pashupati Nath Paul has made them completely subservient to his wishes and they are under the complete domination and control of the defendant Sir Hari Sankar Paul. No benefit is given to plaintiff Purna Chandra Paul or any of his sons.

P20
SSG

29.

The interest of the defendants Sir Hari Santar Paul and Hari Mohan Paul have become adverse to the interests of the plaintiffs as will appear from the following facts:-

(a) under the deed of trust of Butto Krishna Paul dated the 13th August, 1910, Bhut Nath Paul's branch is entitled to a half share in the properties mentioned in the said deed. Bhut Nath Paul's branch is entitled only to an $\frac{1}{3}$ rd share in the residuary estate disposed of by the said Butto Krishna Paul by his will aforesaid.

(b) Ever since the time of Butto Krishna Paul it has been the practice of the family to meet the costs of maintenance of the family, education of children, their marriages, etc. out of the income of the business and to purchase out of the accumulation of the income of properties, which is very considerable, further and other properties.

(c) The branch of Bhut Nath Paul is entitled

to

P21
SSQ

to a half share in the properties which may be found to have been purchased out of the income of the properties mentioned in the deed of trust dated 13th August, 1910. Notwithstanding the said fact, the defendants Sir Hari Sankar Paul and Hari Mohan Paul claim that the properties so acquired should be divided into three equal shares, one of such share only being allottable to the branch of Bhut Nath Paul. This considerably diminishes the trust estate.

(d) Various premises conveyed in trust by the said deed of 1910 have been let out at very low rents for the benefit of the defendants Sir Hari Sankar Paul and Hari Mohan Paul and to the detriment of the branch of Bhut Nath Paul.

(e) The plaintiffs for about 10 years resided in the house of the defendant Hari Dhona Dawn yet the share of the plaintiff Purno Chandra Paul has been

debited

P22
559

debited with a sum of about Rs. 1,00,000/- (One Lac)
as the alleged expenses of the plaintiffs for their
maintenance.

50. The defendants Sir Hari Santar Paul and Hari
Nohan Paul have committed various breaches of trust and acts
of waste which require investigation. The defendant Hari
Dhona Dam has neglected to take any step for the preven-
tion of such breaches of trust and the plaintiff submit
that he has connived at the commission of such breaches of
trust.

(1) Particulars of breaches of trust :-

(a) They have mixed up and are mixing up the
trust estate and trust money with the trustees'
own estate and money and have refused to separate
the said trust estate from the parent estate, save
in the manner aforesaid.

(b) They have failed to render a true and faith-
ful account. After repeated requests and consid-
erable delay, the defendant Sir Hari Santar Paul

and

P 23
159

and Hari Mohan Paul, on 8th May, 1941, offered inspection of the alleged accounts of the trust estate. The account books are incomplete and not in order.

(c) The trustees have failed to disclose the extent of the trust estate to the beneficiaries.

237 ✓ (d) They have failed to ^{regularly} pay/maintenance and allowance as provided by the Deed of settlement of 1920, and the consent decree aforesaid.

(e) They have underlet the premises as mentioned above.

(f) The defendants Sir Hari Sankar Paul and Hari Mohan Paul have purchased various properties out of the income of the parent estate and made various investments, such purchase and investment have been made in their own names or in the names of their respective wives and sons, - and they claim the same to be their own property.

The plaintiffs are unable to furnish particulars

of

P24
SSG

of such purchase and investment as present. They
crave leave to do so after discovery.

(11) Particulars of acts of waste committed by the
defendants Sir Hari Sankar Paul with the knowledge
and connivance of defendants 2 and 3.

(a) The defendant Sir Hari Sankar Paul was made
a Knight in or about the year 1950 and he holds
several important offices. For the maintenance
of his dignity and for his personal benefit, he
spends large amounts of money and debits the -
same to the parent estate thereby debiting a
portion thereof to the trust estate.

(b) The business of Messrs. Butto Kristo Paul
& Co. has been formed into various limited com-
panies, in every one of which the defendants -
Sir Hari Sankar Paul and Hari Mohan Paul are
directors, and they as directors take away large
amounts of money as fees etc. for directors. in

fact

P25
339

fact the establishment charges, directors' fees, their travelling allowances, etc. swallow up the entire income of the limited companies.

(c) Large amounts by way of costs have been incurred in the said several litigations including heavy fees to the Arbitrators, as the costs of the said trust estate.

51. The plaintiffs believe that the present income of the immoveable properties belonging to the parent estate is about Rs. 35,000/- per month, and they are about 150 in number. Yet the defendants Sir Hari Sankar Paul and Hari Mohan Paul by their letter dated the 25th April, 1941, threatened and still threaten that the monthly maintenance and allowance payable to the plaintiffs under the said deed of trust require modification as they now falsely allege the income of the trust estate has diminished and they further say that the parent estate has incurred debts and liabilities which the said trust estate is liable to

bear

P26
SSG

bear proportionately.

32. The defendants Sir Hari Sankar Paul and Hari Mohan Paul have not paid regularly the monthly allowance to the plaintiff Sm. Rashmoni Dassi.

33. The defendant Hari Dhono Dawn by reason of his estrangement of feeling as aforesaid and under the influence of the said Chandra Nath Dawn, who was and is continually disposed towards the plaintiffs, has for some time past been siding with the defendants Sir Hari Sankar Paul and Hari Mohan Paul.

34. The protracted litigations whereby the trust estate has been involved in heavy costs are mainly due to feelings of hostility between the defendant Hari Dhono Dawn on the one hand and the defendant Sir Hari Sankar Paul on the other and they have litigated for over nine years - - for their own gain and to the detriment of the interest of the beneficiaries.

35. The defendants Sir Hari Sankar Paul, Hari Mohan

Paul

P27
SSG

Paul and in the premises the defendant Hari Dhono Dawn are now so placed that they can no longer be expected to faithfully carry out their obligation as trustees under the said Deed of 1920:

36. In the premises aforesaid and in the interest of the beneficiaries (some of whom are still minors) it is just and expedient that the trustees should be removed and new trustee - or trustees should be appointed for the purpose of (a) separating the trust estate from the parent estate, (b) taking accounts from the defendants Sir Hari Sankar Paul, Hari Mohan Paul and Hari Dhono Dawn, (c) an enquiry what the trust estate now consists of and whether the parent estate has incurred any debt or liability and if so is the trust estate liable for any portion thereof, (d) - proper management and administration of the trust estate.

37. The defendant Sm. Sushila Bala Dassi is under the influence of Sir Hari Sankar Paul and has refused to join as co-plaintiff.

Srimati Maya Pal, now Nag, has been married and

P28
SSG

is no longer interested in the trust estate.

38. The plaintiffs ask for leave to sue under clause 12 of the Letters Patent.

The plaintiffs, therefore, claim : -

328 ✓

- (a) Removal of the defendants 1, 2 and 3 from the Office of Trustees of the Deed of Settlement dated May 31, 1920.
- (b) Appointment of new trustees in their place.
- (c) Direction on the new trustees or the receiver to be appointed by the Court as aforesaid to take proper steps for partition and accounts.
- (d) Alternatively, that the plaintiffs or such of them as the court may think fit be given leave to use the name of the said trustees for taking proper steps for partition and account.
- (e) Account, discovery and administra-

administration

P 29
550

administration of the trust estate by and under the directions of the court that - account may be taken on the basis of wilful default and neglect, if necessary.

(f) Receiver.

(g) Such further order may be made, directions given, account taken as in the facts the plaintiffs may be entitled to.

(h) that the defendant do pay the costs of the suit to the plaintiffs.

G. B. Ghosh
PLAINTIFFS' ATTORNEY.

Drawn by

Mr. S. M. Banerjee (Jr.)

Settled by

Mr. B. C. Ghosh

Identified by me
to Shri Roohmani Dassi
Tarak Nath Paul

Tarak Nath Paul
Shambhu Nath Paul, Amas
Mritunjay Paul alias Amas
Nath Paul, Bhola Nath Paul
Khoka, Kalyani Paul alias
Chaya Paul, Mira Paul,
Irani Paul, by
their eldest brother
and next friend
of the minors Tarak Nath
Paul
Purna Chandra Paul

श्री प्रभाकर दास
श्री अता राज अना दास

No, Tarak Nath Paul, Shambhu Nath Paul and Tarak Nath Paul as next friend of Mritunjay Paul, Bhola Nath Paul, Khoka Kalyani Paul, Mira Paul, Irani Paul, the minor plaintiffs, -

severally

soverally and solemnly declare that the statements contained in paragraphs 1, 8, 9, 10, 11, 20 to 35 and 37 are true to our knowledge and the statements contained in paragraphs 2, 3, 4, 5, 6, 7, and 12 to 19 thereof are based on document records and proceedings and are believed to be true and correct and those contained in paragraph 36 thereof are submissions to this Honourable Court.

This verification is signed by us at No. 7 *old*
post office in Calcutta, this *6th* day of -
 June, 1941:
 - *Janak Nath Paul*
 - *Shambhu Nath Paul*
Mitunjoy Paul alias Anas Nath Paul,
Shob Nath Paul, Khadi, Kalyani
Paul alias Chandra Paul, Paul
Paul alias Chandra Paul, Paul
Paul alias Chandra Paul, Paul
 the undersigned

We, Purna Chandra Paul and Sri. Richmoni Dasi, the plaintiffs nos. 9 and 10 solemnly declare that the statements contained in paragraphs 1 to 12 and 14 to 35 of the foregoing plaint, are true to our knowledge and the statements contained in paragraph 13 thereof are based on records and believed to be true and those contained in paragraph 36 thereof

P31
 559

thereof are submissions to this Honourable Court.

This verification is signed by us at the premises

No. 77, Beniatala Street

in the town of Talcher this

Purna Chandra Paul.

fourth day of June, 1941.

श्री पूर्णचंद्र पाण्डे

Identified by me
to Sm. Rushmoni Dasari
Laxmik Mahitband

श्रीशक्ति शंकरशर्मा नरसिं

plaint and verification
explained by me to Sm.
Rushmoni Dasari and Purna
Purna Chandra Paul.

B. B. Dasari Jee
Interpreter 4.6.41.

P32
SSG

Documents annexed to the plaint.

nil.

P33
SSQ

Documents relied upon:-

1. Deed of Settlement of Butto Krishna Paul.
2. Will of Butto Krishna Paul.
3. Deed of Settlement of Purna Chandra Paul.
4. Proceedings in the three suits Nos. 987 of 1925, 644 of 1931, and 2162 of 1930.

P34
Exd
S. Sengupta (17/9/15)

CERTIFIED TO BE A TRUE COPY

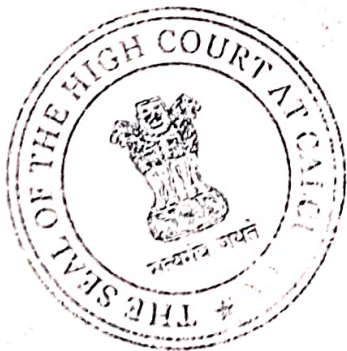
Biswanath Mukherjee
Authorised under Section 76 of the Indian Evidence Act, 1872 (Act 1 of 1872) 7.9.15.

Suit - 917 / 1941

NBR

[Handwritten signature]

Plaint
I



Kuldeep Saha