

OD-2

ORDER SHEET

CS 198 of 2019

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

RAJ KUMAR JALUKA AND ORS.
Versus
RAJENDRA KUMAR KANORIA AND ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 9th December, 2020.

Appearance
Mr. Sudip Deb, Adv.
...for the plaintiff

Mr. Deepak Jain, Adv.
...for the defendant

The Court: Learned counsel for the plaintiffs submits that the dispute has been settled between the plaintiffs and all fourteen defendants in the suit by way of a Terms of Settlement signed between the parties on 28th February, 2020.

Counsel submits that the suit is for declaration and injunction in respect of a property described as "Suit Property" in the terms of settlement and places certain clauses in the Terms to show that the suit can be decreed with reference to the Terms of Settlement.

The advocate-on-record of the defendant is present in Court. The advocate-on-record of the defendant is granted leave to file the Vakalatnama in Court.

On considering Clauses 5, 6 and 7 of the Terms, it is clear that the parties to the suit have agreed that the defendants who are the descendants of late "Luchmi Narayan Kanoria" have no right, title or interest of any nature in respect of the suit property. This appears in Clause 6. Clause 7 is to the effect that there will be a permanent injunction restraining the defendants and their respective family members from claiming any right, title or interest of any nature in respect of the "Suit Property" and/or from interfering with the plaintiffs' possession and occupation of the suit property as well as the plaintiffs' right to receive and recover rents etc in respect of the "Suit Property". Clause 5 is in the form of declaration that the plaintiffs are the joint owners of the "Suit Property".

On perusing the relevant Clauses, this Court is of the view that the suit which was for a declaration that the plaintiffs are the sole and absolute owners in respect of the suit property and for perpetual injunction restraining the defendants and their family members from claiming any right, title or interest in respect of the suit property or interfering with the plaintiffs' possession and occupation of the same, this Court is satisfied that the suit can be decreed with reference to the terms of settlement.

For the above reasons, CS 198 of 2019 is accordingly decreed in terms of the Terms of Settlement arrived at by and between the parties on 28th February, 2020 which is kept on record.

Let the decree be drawn up expeditiously.

(MOUSHUMI BHATTACHARYA, J.)