

OD 21

ATA/2/2021
IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE

IN THE MATTER OF:
DEITY SHREE SHREE LAKSHMI NARAYAN
JEW AND MINATI PAUL AND ORS.

BEFORE:

The Hon'ble JUSTICE SHEKHAR B. SARAF

Date : 1st March, 2022.

[Via Video Conference]

Appearance:
Mr. Raharshi Dutta, Adv.
Mr. Sarbajit Mukherjee, Adv.
Ms. Madhurima Das, Adv.
Mr. Sayantan Bose, Adv.

The Court: This is an application under 34 of the Indian Trust Act, 1882.

By the present application, the shebait of the deity, Shree Shree Lakshmi Narayan Jew, seek modification of an order dated 21st June, 2005 permitting them to enter into a Development Agreement in respect of the immovable property at 73, Jatindra Mohan Avenue, Kolkata.

The applicants submit that the order dated 21st June, 2005 could not be implemented on account of several hindrances, including liability towards Corporation tax, and objections by the existing tenants of the said premises.

The applicants further submit that pursuant to the order dated 21st June, 2005 the Developer had, already, incurred substantial expenditure towards

payment of Corporation tax and for obtaining vacant possession from two of the tenants of the said premises.

By an order dated 26th February, 2021 passed in this proceeding, the proposed Developer was, also, permitted to discharge the liability towards Corporation tax by taking benefit of the Scheme floated by the Kolkata Municipal Corporation, under whose jurisdiction the immovable property of the Trust situated, which permitted payment of arrear property taxes, without interest and penalty.

It is submitted by counsel appearing on behalf of the applicants that pursuant thereto, a further sum of Rs.39 lakhs and odd, has been paid by the Developer towards arrear Corporation taxes.

By order dated 2nd December, 2021, the applicants were granted liberty to enter into a Development Agreement with the Developer and place the Development Agreement before this Court for final approval.

Pursuant thereto, the original executed Development Agreement and Power of Attorney were submitted to Court for approval.

By order dated 3rd February, 2022, this Court had made certain suggestions for changes being incorporated in the original Development Agreement.

The original Development Agreement and the original Power of Attorney have been produced today with the changes incorporated. Accordingly, there shall be an order in terms of prayer (a) of the petition, with the modification that the immovable property of the Deity, Shree Shree Lakshmi Narayan Jew, shall be demolished and developed on the terms contained in the original executed

Development Agreement and the original executed Power of Attorney submitted to Court that is approved hereby. The applicants are given liberty to have the said Development Agreement and Power of Attorney registered with the appropriate registering authority. Upon registration petitioner is directed to file copies of the same in Court.

In view of the above, ATA/2/2021 is disposed of.

(SHEKHAR B. SARAF, J.)

sp/