

IN THE HIGH COURT AT CALCUTTA

(Ordinary Original Civil Jurisdiction)

ORIGINAL SIDE

Present:

The Hon'ble Justice Krishna Rao

CS/171/2018

The Bengal Freemasons' Trust Association

Vs.

The President, District Grand Lodge of Mark Master Masons of Bengal & Anr.

Mr. Aniruddha Mitra

Mr. R. L. Mitra

Ms. Priyanka Dhar

...For the plaintiff.

Heard on : 19.01.2023

Judgment on : 31.01.2023

Krishna Rao, J.:

Plaintiff has filed the instant suit for seeking declaration that the plaintiff is entitled to the exclusive user, occupation, control and possession of Premises No. 19, Park Street, Kolkata as described in Schedule "O" and in the site plan being Annexure 'N' to the plaint in exclusion of the defendant and for permanent injunction against the defendants from encroaching

upon or using or commercially exploiting or changing nature and character of any part of the suit premises.

After filing of the suit, the plaintiff has taken appropriate steps for issuance of Writ of Summons upon the defendants but inspite of receipt of Writ of Summons, the defendants have not filed the written statement and to prove the said contention of the plaintiff, the plaintiff has produced Certificate dt. 10.10.2018 issued by the Department wherein it was certified that defendants have not filed their written statement. Accordingly, vide Order dt. 01.07.2022, this Court had fixed the matter in the list of “Undefended Suit”.

At the time of filing of the suit, the plaintiff had also filed an application for ad interim injunction and accordingly vide order dt. 03.09.2018, this Court had passed an ad interim order and subsequently the interim order passed by this Court was confirmed vide order dt. 07.01.2019.

The plaintiff was constituted on 24.06.1912 as a Limited Company under the Companies Act by way of registered indenture dt. 28.09.2012. The entire property being premises No. 19, Park Street, Kolkata was acquired by the plaintiff as a trustee of District Grand Lodge of Bengal for the beneficiary users of Masonic purpose.

The said property consisting of 131 Cottahs of land was acquired for Masonic purposes and for the benefit of the District Grand Lodge of Bengal being a Masonic Body. For the purpose of carrying out its Masonic and office

activities, the plaintiff granted permission to an unregistered body namely District Grand Lodge of Mark Master Masons of Bengal (hereinafter referred to as “DGLMMM”) to use two rooms in the ground floor of office building standing at 19 Park Street, Kolkata. The DGLMMM was a body formed under Grand Lodge of Mark Master Masons of England and Wales. Initially, the defendant no. 2 was the District Grand Master of DGLMMM. The said unregistered body of District Grand Lodge of Mark Master Masons represented by defendant no. 2 as District Grand Master filed a suit being TS 1618 of 2010 against the plaintiff before the Learned Court of Civil Judge, City Civil Court at Calcutta seeking declaration of its right to use the Hall at 19, Park Street.

The TS 1618 of 2010 was later withdrawn and another suit was filed being TS No. 3153 of 2010 before the Learned City Civil Court at Calcutta. The said suit was filed by a registered body by the name of District Grand Lodge of Mark Master Masons of Bengal, represented through the defendant no. 2, seeking declaration and permanent injunction of the Eastern Hall and adjoining lawn at the said premises. On 30.03.2019, TS No. 3153 of 2010 was dismissed by the Learned Court.

The District Grand Lodge of Mark Master Masons of Bengal who was the original unregistered body was dissolved in the month of August, 2012 by its parent body Grand Lodge of Mark Master Masons of England and Wales and the other lodges affiliated to District Grand Lodge of Mark Master Masons of Bengal were brought under the District Grand Lodge of Mark Master Masons of Madras. The defendant no. 2 who was the Grand Master

of the unregistered body of DGLMMM accordingly resigned as the Grand Master of the unregistered body.

The fact of dissolution was communicated by District Grand Lodge of Mark Master Masons of Madras to the plaintiff. As dissolution of the unregistered body of DGLMMM has no existence and he cannot holdover the two rooms in the ground floor of the office building, the plaintiff has filed another suit being CS 134 of 2014 which is pending before this Court wherein the plaintiff has prayed for declaration, permanent injunction with respect of two rooms and eviction of DGLMMM.

To prove the case, the plaintiff has examined one witness on their behalf and during evidence of the witness of the plaintiff altogether seven (7) documents were exhibited which are as follows :

“Exhibit – 1 : Memorandum and Articles of Association of the Bengal Freemasons’ Trust Association dt. 25.06.2012 along with Certificate of Incorporation.

Exhibit – 2 : Certified copy of Deed of Indenture dt. 28.09.1912.

Exhibit – 3 : Extract copy of Board Meeting of Bengal Freemasons’ Trust Association dt. 16.08.2022.

Exhibit – 4 : Certified copy of the Judgment passed in TS No. 3153 of 2010 by the City Civil Court, 5th Bench, Calcutta dt. 30.03.2019.

Exhibit – 5 : Email dt. 30.08.2012 sent to the District Grand Lodge of Bengal Freemasonry.

Exhibit – 6 : Copy of Emails dt. 21.08.2012 and 02.09.2015.

Exhibit – 7 : Copy of letter dt. 15.09.2012 issued by the Grand Lodge of Mark Master Mason of Madras to the Chairman, Bengal Freemasons' Trust Association, Kolkata.

From Exhibit 1, it is proved that the plaintiff is a company registered under the Companies Act having the registered office at 19, Park Street, Kolkata. From Exhibit 2, it is proved that the plaintiff has acquired the property consisting of 131 Cottahs of land for Masonic purposes for and on behalf of the District Grand Lodge of Bengal which is a Masonic body. The contention of the plaintiff with regard to dismissal of TS No. 3153 of 2010 filed by District Grand Lodge of Mark Master Masons of Bengal was dismissed is proved from Exhibit 4. From Exhibit 5, it is proved that the District Grand Lodge of Mark Master Masons of Bengal was dissolved in the month of August, 2012 and it was also confirmed that all lodges formally under the jurisdiction of Bengal now, come under the auspicious of the District of Madras. From Exhibit 6 it is proved that after the dissolution, Mr. Subroto Chatterjee @ Suby Chatterjee has resigned from all the posts which he was holding in the District Grand Lodge of Mark Master Masons of Bengal. Exhibit 7 proves that the District Grand Master, Madras has informed the Chairman, Bengal Freemasons Trust Association that after the dissolution of Mark District of Bengal which was under charge of R.W. Bro, Subrato Chatterjee, now Mr. M. Chellappa has been empowered to take charge of the lodges under the Mark District of Bengal.

Considered the plaint, the evidence of the plaintiff and the exhibits, this Court finds that no permission was ever granted to the defendant no. 1 being a registered body to use or occupy any part or portion of the premises

No. 19, Park Street, Kolkata. The permission to use the said portion of the said premises was granted to the unregistered body by the DGLMMM, which is dissolved sometimes in the month of August, 2012. It has also been proved that the defendant no. 1 is not a Masonic body and they have nothing to do with the Masonic activity and thus he has no connection with the District Grand Lodge of Mark Master Masons of England and Wales. It is also proved that the defendants have no right or any authority to use or occupy any portion of the premises of the schedule property.

In view of the above, this Court finds that the plaintiff is able to prove the case and thus the plaintiff is entitled to get a decree in terms of prayers (a) and (b) of the plaint.

CS 171 of 2018 is **disposed of**. Decree by drawn accordingly.

(Krishna Rao, J.)