

M/L- 42
04/08/2025
Ct. No.-6
Aritra

C.O. 292 of 2025

**Vinty Khemani & Ors.
Vs.
Ghanshyam Das Harnathka & Ors.**

Mr. Anjan Bhandari

...for the petitioner

Mr. Souradipta Banerjee

Mr. Habib Hussain

Ms. Fatima Hassan

Ms. Shamrin

Mr. Ranojoy Mullick

....for the opposite party Nos. 1 to 4

This application under Article 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order being No.161 dated November 27, 2024 passed by the learned Additional District Judge, 10th Court at Alipore, District-South 24-Parganas in Original Suit No.71 of 1997.

By the order impugned order, the application of the defendant No.1C for being appointed as the joint administrator *pendente lite* along with plaintiff No.1 stood allowed.

The learned advocate appearing for the petitioner submits that the learned trial judge allowed the defendant No.1C to be appointed as the joint administrator *pendente lite* only on the ground that his predecessor-in-interest was appointed as a joint administrator *pendente lite* along with the plaintiff No.1 by virtue of an earlier order. He further submits that the

learned trial judge proceeded on the basis that the subject matter of the probate suit are two immovable properties bearing No.44A, Rafi Ahmed Kidwai Road and 44B, Rafi Ahmed Kidwai Road though the premises bearing No.44B, Rafi Ahmed Kidwai Road does not form the subject matter of the probate suit. He further submits that the opposite party No.3 herein who is the defendant No.1C will create unnecessarily complications in the administration of the estate while acting as a joint administrator *pendente lite*.

Mr. Banerjee, learned advocate appearing for the opposite party Nos.1 to4 does not dispute the fact that the premises No.44B, Rafi Ahmed Kidwai Road does not form the subject matter of the instant suit. He further submits that in order to clarify such fact an application for clarification has already been filed and the same is pending before the learned trial judge. He further submits that the predecessor-in-interest of the defendant No.1C was appointed as a joint administrator *pendente lite* and due to the unfortunate death of his predecessor-in-interest, the instant application was filed.

Heard the learned advocates for the respective parties and perused the materials placed.

Record reveals that the plaintiffs filed an application praying for appointment of an administrator *pendente lite*. It further appears that the defendant No.1 also filed an application for appointment of an

administrator *pendente lite*. The learned trial judge in its earlier order being No.143 dated June 3, 2023 observed that the plaintiffs could not make out a strong case of misconduct of the defendants in respect of the suit premises. It was further recorded in the said order that the applications filed by the plaintiffs and the defendant revealed that the property in question is situated at an extremely lucrative area of the city and its current valuation is huge. It is not in dispute that numerous tenants are there in the suit building and the learned trial judge felt that of appointment of joint administrator *pendente lite* is necessary for the purpose of preserving the property, realisation of rent and payment of taxes relating to the property.

Accordingly, the learned trial judge disposed of the applications filed under Section 247 of the Indian Succession Act thereby appointing plaintiff No.1, namely, Vinty Khemani and the defendant No.1, namely, Renu Harnathka as joint administrators *pendente lite* for the purpose of preserving the bequeathed property and for realisation of rent and payment of taxes relating to the property. The learned trial judge further directed that the administrators shall have a joint bank account and shall operate the same jointly and all expenditure by the administrators shall be subject to the orders of the Court and both the joint administrators were directed to file reports at regular intervals. In the meantime, the

defendant No.1, namely, Renu Harnathka died and the defendant No.1C/opposite party No.3 is one of her heirs.

The learned trial judge, by the order impugned, appointed the defendant No.1C as joint administrator *pendente lite* along with the plaintiff No.1.

Both parties are claiming interest in the bequeathed property. Appointment of joint administrator *pendente lite* having representatives of both sides would protect the interest of both the parties. The learned trial judge was right in observing that the plaintiff cannot have the sole control/administration over the property.

This Court does not find any infirmity in the said order warranting interference under Article 227 of the Constitution of India.

With the above observations, CO 292 of 2025 stands disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)