

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/86/2024
WITH
CS/271/1976

JALAN DISTRIBUTORS
VS.
PROMODE KUMAR JALAN AND ORS.

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE
AND

The Hon'ble JUSTICE OM NARAYAN RAI
Date : April 21, 2025.

Mr. Suddhasatva Banerjee, Adv.
Mr. Rishabh Karnani, Adv.
Mr. Anurag Bagaria, Adv.
...for Appellant/Plaintiff

Ms. Noelle Banerjee, Adv.
Mr. Abhidipta Tarafdar, Adv.
Mr. Dipak Dey, Adv.
...for Respondent No.5(c)

Mr. Soorjya Ganguli, Adv.
Ms. Debomita Sadhu, Adv.
...for Respondent No.6(b)

The Court:- This appeal is directed against the judgment and order dated February 21, 2024, passed in GA No.5 of 2023, whereby the defendant No.5(c) was appointed as Joint Special Officer to act along with the defendant No.6(b) who was already acting as a Special Officer. The said application was subsequently disposed of by the learned Judge by an order dated April 2, 2024.

The plaintiffs being the appellants herein have filed the suit essentially for a declaration that the property in question belongs to the plaintiffs and the defendant Nos. 5 and 6. The claim of the plaintiffs is that Deed of Release should be executed by the defendant Nos. 1 to 4 in respect of the concerned properties in favour of the plaintiffs.

In the aforesaid suit, from time to time parties have been appointed as Receivers/Special Officers. The brother of the defendant No.5(c) was one of the Special Officers. Upon his demise, the defendant No.5(c) approached the learned Single Judge with the aforesaid application. The operative portion of the order impugned reads as follows:-

“The partnership business demands specialized knowledge and well-acquaintance with the pros and cons of the business. The Order dated 22nd July, 1977 decided that the Defendant No. 5 and 6 should be in charge of the Liberty Cinema. Pursuant to the order, which is still un-assailed, legal representatives and successors of Defendant No. 5 and 6 are appointed as Joint Receivers. Since these two families or their representatives are well-acquainted with the partnership business and its assets, there is no reason to depart from the extant practice in terms of the Order dated 22nd July, 1977. Accordingly, Prayer (b) and (d) are allowed. The Joint Receivers shall submit statements of accounts on or before the returnable date. The Joint Receivers shall not alienate any asset whether movable or immovable, without concurrence of all owners of the same. The Registrar Original Side shall submit a report on whether summons were served upon of the Defendants, date of service of summons, date of

appearance of the Defendants and date of filing of written statement, if any, by the Defendants.”

The appellants/plaintiffs are aggrieved by the fact that instead of appointing the appellant no. 2 him as Special Officer, the defendant No.5(c) has been appointed.

The defendant No.5(c) has taken a very fair stand. Learned counsel representing him has said that he has no dispute with the appellants/plaintiffs. As such, he has no problem if the plaintiff no. 2 also acts as Joint Special Officer. The same stand has been taken by the defendant No.6(b).

In view of the aforesaid, we direct that the appellant/plaintiff no.2 will also act as Joint Special Officer along with the other two Special Officers being the defendant Nos.5(c) and 6(b).

Learned counsel for the parties further say that instead of the said parties acting as Joint Receivers, it should be clarified that they should act as Joint Special Officers. We, accordingly, clarify so.

We also delete the portion of the order impugned which reads thus:

“The Joint Receivers shall not alienate any asset whether movable or immovable without concurrence of all owners of the same.”

We further direct that none of the parties to the suit will deal with or alienate any property being the subject matter of the suit without prior leave of the learned Single Judge.

The appeal, accordingly, stands disposed of.

We see that the suit is of 1976. We direct the appellant/plaintiff to take all necessary steps so that the suit can be carried to its logical conclusion, in accordance with law, as soon as possible.

(ARIJIT BANERJEE, J)

(OM NARAYAN RAI, J.)

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