O-72

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
IN APPEAL FROM A JUDGMENT AND ORDER
PASSED IN ITS ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

APO/57/2025
With ATA/3/2021
IA No. GA/1/2025, GA/2/2025

CHAYANENDRA NATH DASH
-Vs-
TAPAS KUMAR DAS AND ORS

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

-AND-

The Hon'ble JUSTICE MD. SHABBAR RASHIDI

For the Appellant	:	Mr. Sourajit Dasgupta, Adv. Ms. Sumitra Das, Adv. Ms. Sananda Chatterjee, Adv.
For the Respondent Nos. 1 to 4	:	Mr. Chayan Gupta, Adv. Mr. Anujit Mookherji, Adv. Mr. P. Chandra, Adv.
For the Respondent No. 5	:	Mr. Ratul Das, Adv. Mr. Anirudhya Dutta, Adv.
HEARD ON	:	16.12.2025
DELIVERED ON	:	16.12.2025

DEBANGSU BASAK, J.:-

1. The appeal is at the behest of an applicant seeking to intervene in a proceeding under Section 7 of The Charitable and Religious Trust Act, 1920.

2. Learned advocate appearing for the appellant submits that, the appellant is a descendant of the Settlor. He refers to the Deed of Settlement dated December 1, 1934. In particular, he draws the attention of the Court to clauses 5(d) (9) and (10) thereof. He submits that by virtue of such clauses, the appellant is a beneficiary of the Trust. Consequently, the immovable property belonging to the Trust which is sought to be sold by the respondent, could not be so done.

3. Learned advocate appearing for the appellant draws the attention of the Court to clause 7 of the Deed of Trust dated December 1, 1934. He submits that, the appellant is entitled to be elected as a Managing Trustee of the Trust if election is to be held in respect thereof. Consequently, the immovable property should not be allowed to be sold.

4. Learned advocate appearing for the respondent draws the attention of the Court to the submission made on behalf of the appellant and recorded by the learned Single Judge in the impugned order dated June 19, 2025. He submits that, the appellant contended that the trust in question is a private trust and that the purpose of the trust being exhausted, the trust became extinct. In addition thereto, learned advocate appearing for the respondent submits that, the trust put up another immovable property for sale. The appellant was an occupant of a portion of such property. Appellant did not object to the sale of such immovable property belonging to the trust at that point of time. Rather, the appellant received a substantial portion of the sale proceeds as compensation for the occupation of the portion of such immovable property sold.

5. Respondents herein filed an application under Section 7 of The Charitable and Religious Trust Act, 1920 for consideration of the prayer for grant of leave to the trust to sell certain immovable property belonging to the trust.

6. The trust in question was created by the Settlor by a registered deed of trust dated December 1, 1934. The appellant traces his rights through various clauses of the Deed of Trust. The relevant clauses which the appellant relies upon are as follows:

> 5(d) To pay to the following persons from the first of April one thousand nine hundred and thirty five for their maintenance per month during their respective lives :-
>
> > (9) To pay for the Mess expenses of such of the Settlor's sons and son's sons now living and those who shall be born within eighteen years from the date of these presents and their family members who shall live in joint Mess at the dwelling house of the Settlor at Chandernagore the monthly sum of Rupees two hundred.
> >
> > (10) To pay the monthly sum of Rupees fifteen for the maintenance – during the minority of each and every one of such sons and – daughters of the sons and daughters of the Settlor as shall – survive his sons and daughters and shall be in needy circumstance.

The trustees shall form a scheme in the month of January for the next financial year and elect from amongst themselves a Managing Trustee who after the death of the Settlor shall be preferably his descendent of good character for the administration of the said Trust

Estate and have the accounts audited each and every year by a Registered Accountant before the month of June next provided that all questions arising hereafter - - concerning the administration of the said Trust Estate not clearly defined in these presents shall be settled by the opinion of the majority in – meetings of Trustees named herein or appointed hereafter but so long, as the Settlor shall live his opinion shall prevail over others Provided also that after the death of the Settlor in case of disputes and differences the same will be referred to the arbitration of the Mayor of Calcutta or the Mayor of Chandernagore or the Notary Public of Chandernagore and in case of – unwillingness of any one to act as an arbitrator to choose any other - arbitrator or arbitrators and umpire under the law for the time being in force and the decision shall be final.

7. In our view, appellant before us does not qualify under 5(d) (9) or (10) of the Deed of Trust. The appellant was not born within eighteen years from the date of the deed of settlement and is not living in a joint mess at the dwelling house of the Settlor at Chandernagore for the appellant to qualify under clause 5(d)(9). The appellant is not in needy circumstance for him to qualify under clause 5(d)(10).

8. So far as grievances relating to clause 7 of the deed are concerned, the appellant may take appropriate steps before the appropriate forum, if so advised.

9. The Court considering the application under Section 7 of the Charitable and Religious Trust Act, 1920 need not detain itself on the allegations as made by the appellant. The appellant is not a beneficiary of the trust established by the Deed dated December 1, 1934. Such allegations are also not to be considered at the behest of the appellant, in this proceeding, since, the appellant is a beneficiary of a sale of immovable property belonging to the trust.

10. In such circumstances, we find no ground to interfere with the impugned order dated June 19, 2025.

11. APO/57/2025 along with connected applications are dismissed without any order as to costs.

[DEBANGSU BASAK, J.]

12. I agree.

[MD. SHABBAR RASHIDI, J.]

sp3