

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/381/2024
WITH
CS/220/1868
IA NO: GA/1/2024

DILIP NARAYAN DEB
VERSUS
SAIBAL DEB AND ORS.

AND

APOT/382/2024
WITH
CS/220/1868
IA NO: GA/1/2024

DILIP NARAYAN DEB
VERSUS
SAIBAL DEB AND ORS.

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

AND

The Hon'ble JUSTICE BISWAROOP CHOWDHURY

Date : 17th February, 2025.

Appearance:

Mr. Ayan Kumar Boral, Adv.

...for the appellant

Mr. Souvick Mitra, Adv.

Ms. Shetparna Ray, Adv.

Mr. N. Roy, Adv.

...for respondent nos. 1 & 2

1. We have heard the learned counsel for the parties.
2. Although it appears that the property was sold by the then trustees contrary to an order passed on 20th September, 2018 in Appeal No.1 of 1869 by which this Hon'ble Court declared that the clauses 10, 18 and 20 of the probated Will of the deceased, which gave

power of sale are invalid and therefore the executors and trustees had no authority to sell and mortgage the properties of the testator and having regard to the fact that no application was filed for seeking permission to sell the said property on good grounds shown, the learned Single Judge was justified in allowing the other prayers save and except prayer (b) in GA 5 of 2022 having regard to the fact that the third party interest has been created in the meantime and it can only be decided in a regular suit for revocation and cancellation of the conveyance which may be based on the orders in the earlier proceeding.

3. The said finding was also valid having regard to the fact that learned counsel appearing on behalf of the purchaser has submitted that he had demolished the property and constructed the said property after making payment of consideration and on proper notice to the trustees.
4. On such consideration, we are not inclined to interfere with the order.
5. It will be open to the appellant to take appropriate steps in accordance with law.
6. Both the appeals and the respective connected applications are disposed of.
7. Affidavit of service is kept on record.

(SOU MEN SEN, J.)

(BISWAROOP CHOWDHURY, J.)