

IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINATING SUMMONS

CSOS/1/2025
PIYUSH GOENKA

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 11th February, 2026

Appearance:

Mr. Rupak Ghosh, Adv.

Mr. Saurojit Dasgupta, Adv.

Mr. Ashis Kumar Mukherjee, Adv.

Mr. Saurabh Prasad, Adv.

For the plaintiff/petitioner.

The Court:- By a Deed of Trust dated 20th December, 1973 one Uma Shankar Goenka settled in trust by the name Panna Devi Goenka Charitable Trust a sum of Rs. 1000/- for charitable purposes as maintained in the said trust deed. The initial trustees were Mohanlal Goenka, Panna Devi Goenka, Mohanlal Bazaz and Uma Shankar Goenka. The trust property vested on the trustees as per desire of the settlor expressed in the trust deed.

In this originating summons suit filed by Piyush Goenka son of late Uma Shankar Goenka, the plaintiff is seeking himself to be appointed as a trustee.

On a reading of the trust deed, it appears from clause 4(vi) that the trustees appointed under the trust were to hold the office for life with a right to retire from such office. The said clause also provided that in the event of death or retirement of any of the trustees, the remaining trustees shall within a

period of three months from the date of such death or retirement elect a new trustee.

It is the case of the plaintiff that all the original trustees have died. Uma Shankar Goenka, the settlor and one of the trustees died on 31st July, 2019 while Rajesh Prasad Khaitan another trustee died on 15th December, 2019. It also appears that though Mohanlal Goenka had passed away on 19th January, 2002, Panna Devi Goenka having died on 17th April, 1985 and Mohanlal Bazaz having left this world on 17th December, 2008, no new trustees were appointed by the remaining trustees at the relevant point of time in terms of clause 4(vi) of the trust deeds.

It is the case of the plaintiff that with the death of all the trustees there is no one to act as the trustee to carry out the objects of the trust as per desire of the settlor expressed in the trust deed dated 20th December, 1973.

The trust, as appears from a plain reading of the trust deed, is a private charitable trust which is outside the purview of the Indian Trust Act, 1882 in view of the provisions of Section 1 of the said Act. The trust, therefore, qualifies to be governed under the Religious and Charitable Trust Act, 1920. The said Act does not provide for any specific mechanism to appoint new trustees when all the trustees have died but permits framing of a scheme by any court of competent jurisdiction. The said Act of 1920 also provides for application of certain provisions of Code of Civil Procedure, 1908 (in short CPC) including a filing of a suit under Section 92 of the Code. Under the Original Side Rules of this Court, this Court can be invited in respect of any question effecting the rights or interest of persons who claims to be the heir or legal representative or

beneficiary under the trust. The plaintiff being the son of the settlor qualifies as a legal heir or legal representative as also a beneficiary under the trust. The plaintiff, therefore, has the right to approach the Court inviting it to exercise jurisdiction under Chapter XIII of the Original Side Rules of this Court as also under Section 92 of the Code with some other beneficiaries. The trust as appears from the records had been in operation. At the present the said trust by the name Panna Devi Goenka Charitable Trust having its office at 180, Mahatma Gandhi Road, 3rd Floor, Kolkata has a sum of Rs.44,00,837.04 as on 31st March, 2024 as per its balance sheet. The profit and loss account of the said trust as on 31st March, 2024 shows a profit of Rs.3,19,100.71.

The law is well settled in regard to the settlors wish expressed in a trust deed. Unless certain exigencies take place or the mode of dissolution of the trust is provided in the trust deed, the trust should be allowed to continue and operate particularly when the same is for charitable purpose. In the instant case the provisions of dissolution of trust as provided under the Indian Trust Act, 1882 is also not applicable. The trust deed does not provide for any dissolution. However, due to inaction on the part of the erstwhile trustees in appointing a new trustee and impasse has been created. This Court being the principal civil court of the original jurisdiction in respect of the trust in question as its office is situated within the Ordinary Original Civil Jurisdiction of this Court and that the present asset of the trust is in excess of Rs.40 lakhs, this Court has the jurisdiction to frame a scheme for appointment of trustees since all the erstwhile trustees have died.

Pursuant to order of Court publications have been inserted in the

newspapers but no one has come forward to participate in the proceedings or to oppose the prayer of the plaintiff.

In the aforesaid facts and circumstances at the instance of the plaintiff, the said plaintiff Piyush Goenka and Brojonath Das are appointed as trustees of Panna Devi Goenka Charitable Trust with effect from 3rd March, 2026 subject to Piyush Goenka and Brojonath Das bringing a sum of Rs.5 lakhs each to the trust as additional corpus of the trust to be added to the existing corpus of the said trust. The trustees so appointed will be at liberty to appoint new trustees subject to maximum of three persons. The maximum member of Trustees at a time shall be five only. The trust funds will vest on the trustees living for the present and those who will be appointed in future. The present trustees and the new trustees who may be appointed by the present two trustees appointed under this order shall in terms of clause 4(vi) of the trust deed definitely appoint a new trustee in case of retirement and death of any of the existing trustees within three months from the date of death or retirement as the case may be.

In the light of the observations as above, the originating summons suit being CSOS No.1 of 2025 is decreed.

The decree be drawn up expeditiously.

(ARINDAM MUKHERJEE, J.)