

Fiona Roy and Ors. Vs. Standard Chartered Bank and Ors.

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Court : Kolkata

Decided On : Jul-08-2015

Judge : I. P. Mukerji

Appellant : Fiona Roy and Ors.

Respondent : Standard Chartered Bank and Ors.

Judgement :

ORDER

SHEET GA1218of 2012 GA1220of 2012 GA1231of 2012 CS181of 2007 IN THE HIGH COURT AT CALCUTTA Ordinary Original Civil Jurisdiction ORIGINAL SIDE FIONA ROY & ORS.Versus STANDARD CHARTERED BANK & ORS.BEFORE: The Hon'ble JUSTICE I.P.MUKERJ.Date : 8th July, 2015.

Appearance: Mr.Raj Ratan Sen, Adv.Mr.Sourav Kumar Mukherjee, Adv.Mr.T.Aich, Adv.Mr.Ram Banerjee, Adv.for the defendant nos.2 and 4 Mr.Pramit Kr.

Ray, Sr.Adv.Mr.Arik Banerjee, Adv.for the plaintiffs.

Mr.Md.Yasin Ali, Adv.Mr.Arijit Bardhan, Adv.Mr.Dipankar Mondal, Adv.MRS.Mamata Khatun, Adv.for the added defendant.

The Court : This is an application taken out by the second and the fourth defendants.

The description of the application is GA1218 of 2012.

It has two prayers. It wants a direction from this Court upon the FIRs. Plaintiff, MRS. Fiona Roy, to produce the original passport of late Soumendra Prakash Roy numbered as A9615686 issued on 21st May, 2001.

It also asks for an order that the Receiver Mr. Sudip Deb, Advocate should make a thorough search in the registered office of the fourth defendant over which, Mr. Deb is Receiver, to find out if an earlier passport of Soumendra Prakash Roy numbered as A623898 dated 13th June, 1991 can be located there.

Mr. Sen, learned counsel appearing for the applicants, shows me several photocopies of passports.

The FIRs are at page 84 of the application.

It is said to be of Sipra Roy, where she has declared Soumendra Prakash Roy to be her husband.

Sipra Roy is now dead.

She claimed and her legal heir now claims that Sipra Roy was the wife of Soumendra Prakash Roy.

This is disputed by the plaintiffs, who claim to be the widow and offsprings of Soumendra Prakash Roy.

This is the subject matter of a contested litigation, which is going on between the parties for sometime.

The next passport is at page 102 of the application.

It is said to be of Soumendra Prakash Roy and issued in 1991, where he declared Sipra Roy to be his wife.

This passport was valid for about ten years. In his subsequent passport also, he is said to have declared Sipra Roy as his wife.

This alleged passport was issued in 2001.

A photocopy of it is at page 106 of the application.

Mr.Roy, learned Senior Advocate for the plaintiffs, submitted that in this suit, on 18th April, 2008, Mr.Justice Sanjib Banerjee had passed an order for appointment of a Receiver with a direction upon him to make a thorough inventory of the registered office of the defendant no.4.

This order was passed at the instance of the plaintiffs.

Being aggrieved by this order, an appeal was preferred by the defendant nos.2 and 4 before a Division Bench of this Court presided over by Mr.Justice Pinaki Chandra Ghose.

On 28th October, 2009, the order of the trial court was affirmed, the appeal was dismissed.

The Special Leave Petition to the Supreme Court of India against this order of the Division Bench was also dismissed.

Thereafter, Mr.Roy submitted that the Receiver duly made an inventory in terms of the order of the trial court and has filed a detailed report.

In this report there is no mention whatsoever of any passport or passports lying in the office of the defendant no.4, let alone the passport of Mr.Soumendra Prakash Roy.

Hence, Mr.Roy submits that no order should be passed on this application.

Furthermore, it is stated that on 29th September, 2011, an order was passed by Mr.Justice Sinha on the application of the defendant nos.2 and 4 to make a thorough inspection of the documents inventorised and to take copies thereof.

It appears from the order dated 18th April, 2008 that the Receiver was directed to make an inventory of all the documents that were available in the registered office.

It is said that they were to be removed to a separate part of the office to which only the Receiver for the moment would have access.

It is an admitted position that the office is under the lock and key of the Receiver.

It appears from the record of proceedings that the said application taken out and the orders passed therein related to functioning and control of the company, after the death of Soumendra Prakash Roy.

The order directing the Receiver to make an inventory of all documents lying in the registered office was in aid of the reliefs claimed in the plaint.

It is quite possible that the Receiver made an inventory in that direction only and may or may not have searched every nook and corner of this registered office for a little document like a passport.

For the purposes of this suit, in my opinion, it is quite important that all the available documents are known to the parties.

In those circumstances, I direct the Receiver to file a supplementary report after making a clear recollection as to whether he has made an inventory of each and every corner of the registered office i.e all the drawers, lockers, cupboards, shelves, receptacles etc. before filing his inventory before the Court.

If he has done so, he can confirm that in his report.

No further act is to be done because it is to be assumed that the passport/passports are not there.

If there is any doubt in the mind of the Receiver as to whether he has searched the registered office thoroughly, he will be at liberty to open the padlock and re-visit the premises in the presence of all the appearing parties and make a search whether any passport or passports can be found there.

In that event the Receiver's remuneration assessed at 800 G.Ms. is to be paid by the applicant in addition to all charges.

The Receiver will file an additional report in this Court with copies circulated to the parties.

This exercise is to be completed by the Receiver by 31st July, 2015.

This application being GA1218of 2012 is, accordingly, disposed of.

The application (GA1231of 2012) is disposed of by deferring the hearing of the suit till disposal of the application (GA1220of 2012).List the application being GA1220of 2012 for hearing on 16th July, 2015.

(I.

Sp2.P.MUKERJI, J.)

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