

ORDER SHEET

CSOS No.3 of 2016
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

TAPAN KUMAR SEN
Versus
JYOTSNA SEN & ORS.

BEFORE:

The Hon'ble JUSTICE ARINDAM SINHA

Date : 29th January, 2019.

MR. BUDDHADEB GHOSAL, MR. ANIRUDDHA MITRA, MR. SANDIP GHOSH,
MR. PARTHA SARKAR, ADVOCATES FOR PLAINTIFF.

MR. SHYAMAL CHAKRABORTY, ADVOCATE FOR DEFENDANT NOS. 1A, 1B, 1C, 2 & 3.

The Court:-On 18th January, 2019 following order was made:-

Mr. Mitra, learned advocate appears on behalf of plaintiff in this Originating Summons suit and submits, questions raised come within clause (a) under Rule 1, Chapter XIII of the Original Side Rules. He submits, by indenture dated 10th September, 1941 grandfather of plaintiff gifted his business to his five sons. Plaintiff and defendants are heirs and surviving sons of donor.

Mr. Chakraborty, learned advocate appears on behalf of defendants and submits, on the business being gifted to the sons they constituted a partnership firm in the year 1976 as per indenture dated 14th April, 1976. Sons worked out their interest consequent upon the gift. Subsequently, this firm was dissolved. He submits, this suit is in effect a disguised claim barred by limitation.

*Parties will be further heard. List on **24th January, 2019** under heading “For Orders”.*

Court is convinced matter in respect of which relief is sought require parties to be referred to suit in ordinary course, since no submission could be made to detract from those made on behalf of defendant as earlier recorded. In the circumstances, this Originating Summons suit is dismissed and parties referred to suit in ordinary course. Let costs already incurred be costs in the suit to be tried in ordinary course, if filed by plaintiff.

(ARINDAM SINHA, J.)

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