

District North 24 Parganas.

In the court of 2d Jd at Borasat.

T.A - 36/12 ✓

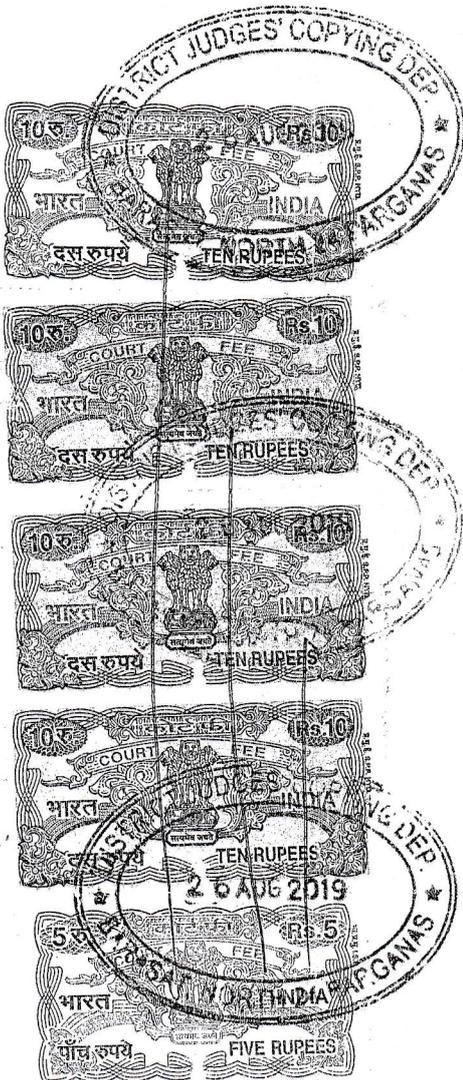
Tarun Kumar Das -
- vs -

Anabi Day Saha ✓

Petition no - X 11773 ✓

Dated - 21-8-19 ✓

Assessment - 26-8-19 ✓



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DISTRICT: NORTH 24 PARGANAS

3rd AdJ

908
411773
Ammit Das
L.A. Das

Ammit Das

Barasat
Ammit Das

In the Court of the Ld. 3rd Additional District Judge at Barasat

Ref : T.A. No. 36/2012

arising out of T.S. No. 205/2010

Tarun Kumar Das

... Appellant

- Versus -

Sri Amit Das & Anr.

... Respondents

PETITION ON BEHALF OF THE APPELLANT / PLAINTIFF
UNDER SECTION 151 OF THE C.P. CODE FOR AMENDMENT
OF THE INJUNCTION PETITION

Most Respectfully Sheweth :-

1. That the appellant / plaintiff filed the original suit for declaration and injunction and the same was dismissed ex-parte.
2. That thereafter the appellant / plaintiff preferred the instant Title Appeal before the Ld. District Judge's Court, North 24-Pgs. at Barasat on 05.06.2012 and on that very date on the prayer of the appellant interim injunction was granted in respect of the suit property and the instant appeal is now pending before Your Honour's court on transfer.
3. That the said interim injunction was subsequently made absolute by this Ld. Court till disposal of the instant Title Appeal.



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Arati Das

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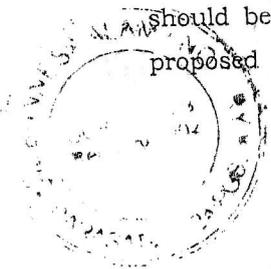
4. That in the meantime Smt. Anjana Chanda and Amit Kumar Das being both the son and daughter of Arati Das gifted their share over the suit property by way of two separate registered deed of gift bearing Nos. 3596 and 3597 both of 2010 registered at the office of the D.S.R. - II, Barasat which has come to the knowledge of the appellant / plaintiff on obtaining certified copy of the said deeds only on 01.08.2017 after having obtained information in the last part of July, 2017.

5. That the said transfers by the said Anjana Chanda and Amit Kumar Das were during the pendency of the instant proceedings but neither of the parties have informed this appellant or to this Ld. Court in the meantime about the said transfers thereby suppressing important material facts.

6. That when Arati Das went to mutate her name before the Urban Development Department, Government of West Bengal in respect of the suit property the Urban Development Department informed her that the mutation is dependent upon the result of the title suit No. 205/2010.

7a). That the appellant / plaintiff also got information that during the pendency of this proceeding the said Arati Das transferred the lease in respect of the suit property by executing a deed of assignment dated 05.04.2013 in favour of 1) Sri Rabindra Kumar Chopra and 2) Sri Birendra Kumar Chopra by way of a registered Deed of Transfer of Lease / Deed of Assignment being No. 01096 registered before the office of the A.D.S.R., Bidhannagar (Salt Lake City), North 24 Parganas for the year 2013 in which the Governor of West Bengal was also made party.

7b). That all the abovestated transfers are illegal, arbitrary and not binding upon the plaintiff / appellant void ab initio and hence liable to be declared a nullity accordingly the above said subsequent facts should be incorporated in the pleadings of the plaint case by way of proposed amendments as below as well as in the instant appeal



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Arati Das

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[Signature]

for proper adjudication of the instant proceedings in the changed circumstances otherwise your appellant / plaintiff will suffer irreparable loss and injury which cannot be compensated by money value.

8. That in the meantime the said Anjana Chanda the daughter of Arati Das the deceased defendant / respondent has filed a petition supporting the appellant / plaintiff.

9. That the proposed amendments as prayed for in the instant petition will not change the nature and character of the instant suit.

10. That if the proposed amendments as prayed for be allowed the same will enable this Ld. Court to render proper adjudication of the instant proceedings.

11. That if the proposed amendments as prayed for be allowed in that event the defendant / respondent will not be prejudiced in any way.

12. That the instant petition is made bonafide and for the ends of justice.

Hence, it is prayed that Your Honour would be graciously pleased to pass necessary order to amend the injunction petition in connection to the original suit as per proposed amendments below and / or to pass such other order or orders as Your Honour may deem fit and proper.



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SCHEDULE-OF PROPOSED AMENDMENT

i) That after paragraph 1. xxiii) of the injunction petition the following paragraphs should be added :-

1. xxiii(a) That in the meantime Smt. Anjana Chanda and Amit Kumar Das being both the son and daughter of Arati Das gifted their share over the suit property by way of two separate registered deed of gift bearing Nos. 3596 and 3597 both of 2010 registered at the office of the D.S.R. - II, Barasat which has come to the knowledge of the appellant / plaintiff on obtaining certified copy of the said deeds only on 01.08.2017 after having obtained information in the last part of July, 2017.
1. xxiii(b) That the said transfers by the said Anjana Chanda and Amit Kumar Das were during the pendency of the instant proceedings but neither of the parties have informed the appellant or to this Ld. Court in the meantime about the said transfers thereby suppressing important material facts.
1. xxiii(c) That when Arati Das went to mutate her name before the Urban Development Department, Government of West Bengal in respect of the suit property the Urban Development Department informed her that the mutation is dependent upon the result of the title suit No. 205/2010.
1. xxiii(d) That the appellant / plaintiff also got information that during pendency of this proceeding the said Arati Das transferred the lease in respect of the suit property by executing a deed of assignment dated 05.04.2013 in favour of 1) Sri Rabindra Kumar Chopra and 2) Sri Birendra Kumar Chopra by way of a registered Deed of Transfer of Lease / Deed of Assignment

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Praveen K. Das

10/11/2013

being No. 01096 registered before the office of the A.D.S.R., Bidhannagar (Salt Lake City), North 24-Parganas for the year 2013 in which the Governor of West Bengal was also made party.

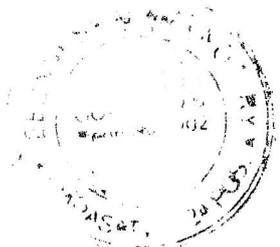
1. xxiii(e) That all the abovestated transfers are illegal, arbitrary and not binding upon the appellant / plaintiff void ab initio and hence liable to be declared a nullity accordingly the above said subsequent facts should be incorporated in the pleadings of the plaint case by way of proposed amendments, as below, as well as in the instant appeal for proper adjudication of the instant proceedings in the changed circumstances otherwise your appellant / plaintiff will suffer irreparable loss and injury which cannot be compensated by money value.

1. xxiii(f) That in the meantime the said Anjana Chanda the daughter of Arati Das the deceased defendant / respondent has filed a petition supporting the appellant / plaintiff.

ii) That after prayer (d) of the injunction petition following new prayer should be added as:-

d(i) Injunction restraining the subsequent transferees / assignees from doing any work over the suit property on the strength of the alleged transfer of lease / deed of assignment or from causing any hindrance to the interest of the plaintiff.

iii) That as the defendant No. 1 Smt. Arati Das has already expired leaving behind her only daughter Smt. Anjana Chanda and only son Sri Amit Kumar Das as her only legal heirs and



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Arati Das

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Arati Das

10/10/2018

successors. The name of the deceased defendant No. 1 Smt. Arati Das be expunged from the cause title of the injunction petition.

And for this act of kindness your petitioner/ plaintiff as in duty bound shall ever pray.



Checked by

NO. 22832
8 JUL 2017



Filed By
S. K. MUKHERJEE

BEFORE THE NOTARY PUBLIC
LAKSHI, NORTH 24 PARGANAS

I, Tarun Kumar Das, son of Late Santi Ranjan Das, aged about 62 years, by faith Hindu, by occupation business, residing at EE/13 /8, Salt Lake City, Sector - II, Kolkata - 700 091, under Police Station Bidhannagar (East), in the District of North 24-Parganas, do hereby solemnly affirm and declare as follows :-

1. That I am the appellant / plaintiff of the instant appeal and am well conversant with the facts and circumstances of the same.
2. That the statements as made in paragraphs 1 to 11 of this petition are true to my knowledge and the rest are my respectful submission before this Ld. Court.

Tarun Kumar Das

Deponent

Prepared in my office

Sarabjit Ghosh
Advocate

Identified by me

Sarabjit Ghosh
Advocate

Solemnly affirmed on. 28/8/17
by the party being duly identified by
Advocate. *T. Ghosh*
This document consists of
pages and is checked by
Notary Clerk

28/8/17
Notary Public Office at
North 24 Pgs RECON No- 1102

78 JUL 2017

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DISTRICT: NORTH 24 PARGANAS

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Jayanta Das

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Jyoti Prasad

In the Court of the Ld. 3rd Additional District Judge at Barasat

Ref : T.A. No. 36/2012
arising out of T.S. No. 205/2010

Received
am
Sri Amit Das
28.8.12

Tarun Kumar Das ... Appellant

- Versus -

Sri Amit Das & Anr. ... Respondents

PETITION ON BEHALF OF THE APPELLANT / PLAINTIFF UNDER
ORDER 6 RULE 17 READ WITH SECTION 151 OF THE C.P. CODE
FOR AMENDMENT OF THE PLAINT

Most Respectfully Sheweth :-

1. That the appellant / plaintiff filed the original suit for declaration and injunction and the same was dismissed ex-parte.
2. That thereafter the appellant / plaintiff preferred the instant Title Appeal before the Ld. District Judge's Court, North 24-Pgs. at Barasat on 05.06.2012 and on that very date on the prayer of the appellant / plaintiff interim injunction was granted in respect of the suit property and the instant appeal is now pending before Your Honour's court on transfer.
3. That the said interim injunction was subsequently made absolute by this Ld. Court till disposal of the instant Title Appeal.



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Arati Das

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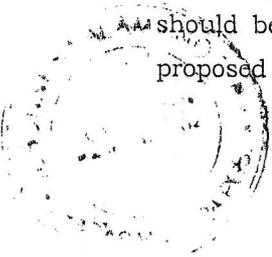
4. That in the meantime Smt. Anjana Chanda and Amit Kumar Das being both the son and daughter of Arati Das gifted their share over the suit property by way of two separate registered deed of gift bearing Nos. 3596 and 3597 both of 2010 registered at the office of the D.S.R. - II, Barasat which has come to the knowledge of the appellant / plaintiff on obtaining certified copy of the said deeds only on 01.08.2017 after having obtained information in the last part of July, 2017.

5. That the said transfers by the said Anjana Chanda and Amit Kumar Das were during the pendency of the instant proceedings but neither of the parties have informed the appellant / plaintiff or to this Ld. Court in the meantime about the said transfers thereby suppressing important material facts.

6. That when Arati Das went to mutate her name before the Urban Development Department, Government of West Bengal in respect of the suit property, the Urban Development Department informed her that the mutation is dependent upon the result of the title suit No. 205/2010.

7a). That the appellant / plaintiff also got information that during pendency of this proceeding the said Arati Das transferred the lease in respect of the suit property by executing a deed of assignment dated 05.04.2013 in favour of 1) Sri Rabindra Kumar Chopra and 2) Sri Birendra Kumar Chopra by way of a registered Deed of Transfer of Lease / Deed of Assignment being No. 01096 registered before the office of the A.D.S.R., Bidhannagar (Salt Lake City), North 24-Parganas for the year 2013 in which the Governor of West Bengal was also made a party.

7b). That all the abovestated transfers are illegal, arbitrary and not binding upon the appellant / plaintiff void ab initio and hence liable to be declared a nullity accordingly the above said subsequent facts should be incorporated in the pleadings of the plaint case by way of proposed amendments, as below, as well as in the instant appeal



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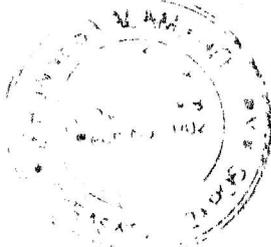
Arati Das

Filed By

for proper adjudication of the instant proceedings in the changed circumstances otherwise your appellant / plaintiff will suffer irreparable loss and injury which cannot be compensated by money value.

8. That in the meantime the said Anjana Chanda the daughter of Arati Das the deceased defendant / respondent has filed a petition supporting the appellant / plaintiff.
9. That the proposed amendments as prayed for in the instant petition will not change the nature and character of the instant suit.
10. That if the proposed amendments as prayed for be allowed the same will enable this Ld. Court to render proper adjudication of the instant proceedings.
11. That if the proposed amendments as prayed for be allowed in that event the defendants / respondents will not be prejudiced in any way.
12. That the instant petition is made bonafide and for the ends of justice.

Hence, it is prayed that Your Honour would be graciously pleased to pass necessary orders to amend the plaint of the original suit as per proposed amendment below and / or pass such other order or orders as Your Honour may deem fit and proper.



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SCHEDULE OF PROPOSED AMENDMENT

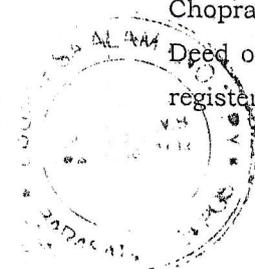
i) That after paragraph 22 of the plaint of the original suit the following paragraphs should be added :-

22(a) That in the meantime Smt. Anjana Chanda and Amit Kumar Das being both the son and daughter of Arati Das gifted their share over the suit property by way of two separate registered deed of gift bearing Nos. 3596 and 3597 both of 2010 registered at the office of the D.S.R. - II, Barasat which has come to the knowledge of the appellant / plaintiff on obtaining certified copy of the said deeds only on 01.08.2017 after having obtained information in the last part of July, 2017.

22(b) That the said transfers by the said Anjana Chanda and Amit Kumar Das were during the pendency of the instant proceedings but neither of the parties have informed the appellant / plaintiff or to this Ld. Court in the meantime about the said transfers thereby suppressing important material facts.

22(c) That when Arati Das went to mutate her name before the Urban Development Department, Government of West Bengal in respect of the suit property, the Urban Development Department informed her that the mutation is dependent upon the result of the title suit No. 205/2010.

22(d) That the appellant / plaintiff also got information that during pendency of this proceeding the said Arati Das transferred the lease in respect of the suit property by executing a deed of assignment dated 05.04.2013 in favour of 1) Sri Rabindra Kumar Chopra and 2) Sri Birendra Kumar Chopra by way of a registered Deed of Transfer of Lease / Deed of Assignment being No. 01096 registered before the office of the A.D.S.R., Bidhannagar (Salt Lake



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City), North 24-Parganas for the year 2013 in which the Governor of West Bengal was also made party.

22(e) That all the abovestated transfers are illegal, arbitrary and not binding upon the appellant / plaintiff void ab initio and hence liable to be declared a nullity accordingly the above said subsequent facts should be incorporated in the pleadings of the plaint case by way of proposed amendments, as below, as well as in the instant appeal for proper adjudication of the instant proceedings in the changed circumstances otherwise your appellant / plaintiff will suffer irreparable loss and injury which cannot be compensated by money value.

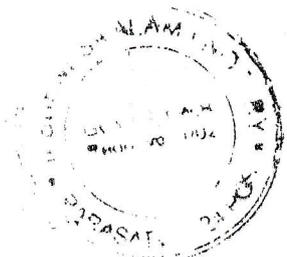
22(f) That in the meantime the said Anjana Chanda the daughter of Arati Das the deceased defendant / respondent has filed a petition supporting the appellant / plaintiff.

ii) That in the cause title of the plaint the following words should be added :-

After the words "FOR DECLARATION" - "AND FOR CANCELLATION OF SUBSEQUENT TRANSFER OF LEASE / DEED OF ASSIGNMENT DATED 5TH APRIL, 2013 BEING NO. 01096 OF THE A.D.S.R., BIDHANNAGAR (SALT LAKE CITY) Rs. 1,000/-."

iii) That after the prayer (b) of the plaint the following new prayer should be added as :-

b(i) Declaration that the alleged transfer of lease / deed of assignment dated 05.04.2013 between Smt. Arati Das and Sri Rabindrara Kumar Chopra & Sri Birendra Kumar Chopra allegedly registered before the A.D.S.R. Bidhannagar (Salt



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Arati Das

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Lake City) being No. 01096 registered in Book No.1, CD Vol. No. III, Pages 3497 to 3511 in respect of the suit property is void, in-operative, illegal, arbitrary and not binding upon the appellant / plaintiff.

iv) That after the prayer (f) of the plaint the following new prayer should be added as :-

f(i) Injunction restraining the subsequent transferees / assignees from doing any work over the suit property on the strength of alleged transfer of lease / deed of assignment or from causing any hindrance to the interest of the plaintiff.

v) That as the defendant No. 1 Smt. Arati Das has already expired leaving behind her only daughter Smt. Anjana Chanda and only son Sri Amit Kumar Das as her only legal heirs and successors, the name of the deceased defendant No. 1 Smt. Arati Das be expunged from the cause title of the plaint.

And for this act of kindness your petitioner / plaintiff as in duty bound shall ever pray.



Checked by

NO. 27631

28 AUG 2017



AFFIDAVIT

NOTARY PUBLIC NORTH 24 PARGANAS

I, Tarun Kumar Das, son of Late Santi Ranjan Das, aged about 62 years, by faith Hindu, by occupation business, residing at EE-13 /8, Salt Lake City, Sector - II, Kolkata - 700 091, under Police Station Bidhannagar (East), in the District of North 24-Parganas, do hereby solemnly affirm and declare as follows :-

1. That I am the appellant / plaintiff of the instant appeal and am well conversant with the facts and circumstances of the same.
2. That the statements as made in paragraphs 1 to 11 of this petition are true to my knowledge and the rest are my respectful submission before this Ld. Court.

Tarun Kumar Das

Deponent

Prepared in my office

Parab Mukherjee
Advocate

Identified by me

Parab Mukherjee
Advocate

Solemnly affirmed on 28/8/17
by the party being duly identified by
Advocate *Parab Mukherjee*
his document contains
pages and is checked by *d*
Notary Clerk

28 Aug 2017
(Abanindranath Ghosh)
Notary Public, Barasat
North 24 Pgs REGN NO- 1102

28 AUG 2017

Checked by