

T. A 26/12

16.
30-09-13

Respondent no. 1. He is husband.
Respondent no. 2, during this step.
Respondent 3 did not appear before this court.
The maintenance has been elapsed after the publica-
tion of leading newspaper.
Applicant files a husband with a prayer
for extension of interim order in the
dispute is allowed.

The interim order is extended till
07-11-13 date long of my arrest.
A.C.R. not yet been heard by it
To 07/11/13 & hearing of injunction applies
and for arrival of the A.C.R. -

PKP
Additional District Judge
Srd. Court, Barasat
North 24 Parganas

17
07.11.2013

Respondent No. 1 files husband. Appellant
files a petition for extension of the interim order.

None appears on behalf of the respondents
on repeated calls, but advocate for the appellant is present.
Today is the date fixed for
hearing of the injunction application and for arrival
of A.C.R.

Due to non-appearance on behalf
of the respondents at the time of calls, the
injunction application cannot be heard today.

Fix 07.12.2013 for hearing of the
injunction application and for arrival of A.C.R.

PKP
Additional District Judge
Srd. Court, Barasat
North 24 Parganas

18
07.12.13

Respondent no. 1 files a petition for adjournment.
Appellant files a petition for extension of interim order.
It appears that the respondent no. 1 has not filed any sub-
mission and the other respondents are also not appearing.
There is no reason to fix any ready date for hearing
of the injunction petition. Fix 15.03.2014 for hearing of
petition and L.C.R. Interim order is extended till 15.03.2014.
Petition for extension is then disposed of.

PKP
Additional District Judge
Srd. Court, Barasat
North 24 Parganas

12023

66 99
Acs

To the court of. l. soc. A. D. J. at Caracas

Ref T.A. NO 36/2012

A.P. NO. 3272 dt. 18.3.14

Assump dt. 19.3.14

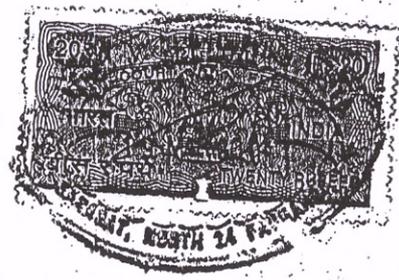
Tarceon box das

--- of ---

o/s.

Arati Das Brothers.

--- Respondeo ---



6109



19
15.03.2014

Both sides file motions. It appears that things as per petition dated 06.02.14 which was filed on that date but put up today along with the records.

19
15.03.2014

Both sides file motions. It appears that on 06.02.14 a petition was filed by the appellant but the same is put up today along with the records.

It appears from the above said petition and particularly from the annex copy of the death certificate annexed therewith, that the respondent no. 1 Mrs. Anant Das died on 21.01.2014. However, today the basis has been filed on behalf of the said deceased. It further appears that the petition dated 06.02.2014 was filed after serving copy of the same upon the Ld. Advocate for the said respondent. The Ld. Advocate for the appellant and the Ld. Advocate for the deceased respondent are present. Ld. Advocate for the said respondent submits that since they have not got any information of death, the basis was filed on behalf of the said respondent. However the prayer made in the said petition is not agreed.
Contd.

Checked by

Heard both sides. Considered.

It appears that the appeal was fixed for separate hearing against the respondent nos. 2 and 3 due to their non-appearance. It further appears that since the respondent nos. 2 and 3 are the only legal heirs and representatives of the deceased and their names are already on record, the name of the respondent no. 1 is to be expunged.

The petition dated 06.02.14 is thus allowed. The name of the respondent no. 1 is expunged. Office is directed to make necessary correction in the cause title of the memo of appeal.

The appellant also files a petition for extension but the Ld. Advocate for the appellant submits that the petition for injunction may be disposed of since none is opposing the prayer made therein.

Heard. Considered & now find no reason for disallowing the ^{submission} prayer of the Ld. Advocate for the appellant.

Accordingly the petition u/039 R.I.R.2 read with letter 157 C.P.C. is allowed. The interim order dated passed on 08.06.2012 is extended till disposal of the present appeal. Fix 31.05.2014 for ^{separate} hearing of the appeal. To Make remittance for L.C.R. immediately.

[Signature]
S.D., 3rd Court
Bikaner

Checked by _____



Sharmila Das
Co-opted attorney of
Respondent no. 3

DISTRICT :- NORTH 24 PARGANAS
IN THE COURT OF LD. 3RD ADDITIONAL DISTRICT JUDGE AT BARASAT

T.A. No. 36 / 2012

Tarun Kumar Das

..... Appellant

- VS -

Smt. Arati Das & others

..... Respondents

The humble petition on behalf of
the Respondent No.-3 showing
causes being represented by his true
and lawful attorney.

Meant respectfully sheweth :-

1. That the Respondent No.-3 has come to know from a reliable source that a suit for declaration was initiated by the appellant against him and other being T.S. No. 205/2010 before the Ld. Civil Judge (Sr. Divn.) Second Court at Barasat which was dismissed exparte.
2. That the Respondent No.-3 has also come to know that being aggrieved at and dissatisfied with the said order, the plaintiff / appellant has also filed the instant appeal which is pending for adjudication.

-:: (2) ::-

Sharmila Das
Counsel for attorney of App
no
Barasat
2010

3. That having learnt, the attorney of the Respondent No.-3 made searches of the record through her Ld. Advocate and has come to know that today is poised for further hearing of the appeal.
4. That the Respondent No.-3 had no knowledge previously about the instant appeal as well the suit, so the respondent no opportunity to take part and to file written objection in his defence.
5. That the Respondent No.-3 did not get any summons from the court of Ld. Civil Judge Sr. Divn. 2nd Court at Barasat in T.S. No: 205/2010 nor the summons of the instant appeal.
6. That the Respondent No.-3 wants to contest the instant appeal after knowledge of the same, so he should be afforded with an opportunity of being heard following the principle "audi alterem partem".
7. That there was no negligence or latches /false from the part of the respondent, if he know about the institution of the instant appeal earlier he must have come earlier to contest the same, so the situation was beyond his control and knowledge which is required to be condone by the grace of the Ld. Court.
8. That if the respondent No.-3 is not allowed to take part in this appeal and if the appeal is heard exparte without giving him any opportunity to argue, he would have to suffer an irreparable loss and injury which can

Sharmila Das
Combined Attorney
of Respondent No. 3
Bar, Bangalore

--: (3) :--

not be compensated by any money value.

9. That the application is made bonafide and for the interest of justice.
10. That the causes show by the Respondent No.-3 is bonafide and can be accepted by the Ld. Court as sufficient.

In view of the aforesaid facts and circumstances it is humbly prayed that your Honour would graciously be pleased to pass an order accepting the causes shown as bonafide and convincing to meet the ends of justice.

AND

Pass such other order and/or orders as your Honour may deem fit and proper.

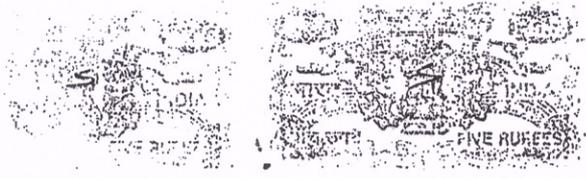
AND for such act of kindness your petitioner as in duty bound shall ever pray.

Dated The 1st day of September 2014

VERIFICATION

That the above statements are all true to the best of my knowledge and belief and I put my signature on this verification today at Barasat Court Premises.

Sharmila Das
Combined Attorney



6 B contd
Sharmila Das
Counsel and attorney at
Bar for no. 3
Prof. S. S. Das

DISTRICT :- NORTH 24 PARGANAS
IN THE COURT OF LD. 3RD ADDITIONAL DISTRICT JUDGE AT BARASAT

T.A. No. 36 / 2012

Tarun Kumar Das

..... Appellant

- VS -

Smt. Arati Das & others

..... Respondents

The humble petition on behalf of the
Respondent No.-3 Amit Kumar Das
represented by his true and lawful
attorney SHARMILA DAS for vacating
exparte order of hearing of appeal.

Most respectfully sheweth :-

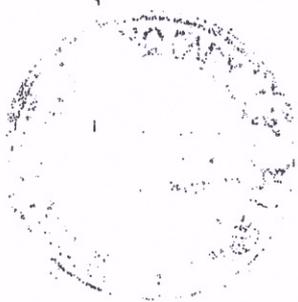
1. That the Respondent No.-3 has come to know from a reliable source that a suit for declaration was initiated by the appellant against him and other being T.S. No. 205/2010 before the Ld. Civil Judge (Sr. Divn.) Second Court at Barasat which was dismissed exparte.
That the Respondent No.-3 has also come to know that being aggrieved at and dissatisfied with the said order, the plaintiff / appellant has also filed the instant appeal which is pending for adjudication.



-: (2) :-

Shamsher Das
Counsel for appellant
Case no. 3
P. J. Singh
Adv.

3. That having learnt, the attorney of the Respondent No.-3 made searches of the record through her Ld. Advocate and has come to know that today is poised for further hearing of the appeal.
4. That the Respondent No.-3 had no knowledge previously about the instant appeal as well the suit, so the respondent no opportunity to take part and to file written objection in his defence.
5. That the Respondent No.-3 did not get any summons from the court of Ld. Civil Judge Sr. Divn. 2nd Court at Barasat in T.S. No. 205/2010 nor the summons of the instant appeal.
6. That the Respondent No.-3 wants to contest the instant appeal after knowledge of the same, so he should be afforded with an opportunity of being heard following the principle "**audi alterem partem**".
7. That there was no negligence or laches /false from the part of the respondent, if he know about the institution of the instant appeal earlier he must have come earlier to contest the same, so the situation was beyond his control and knowledge which is required to be condone by the grace of the Ld. Court.



Shamila Jadhav
President of
Maharashtra
Prof. Jadhav

-: (3) :-

8. That if the respondent No.-3 is not allowed to take part in this appeal and if the appeal is heard exparte without giving him any opportunity to argue, he would have to suffer an irreparable loss and injury which can not be compensated by any money value.
9. That the application is made bonafide and for the interest of justice.

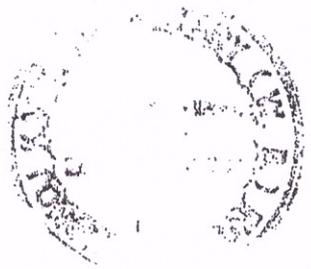
In view of the aforesaid facts and circumstances it is humbly prayed that your Honour would graciously be pleased to pass an order vacating the exparte order of hearing of appeal by giving an opportunity to the respondent No.-3 to argue his case to meet the ends of justice.

AND

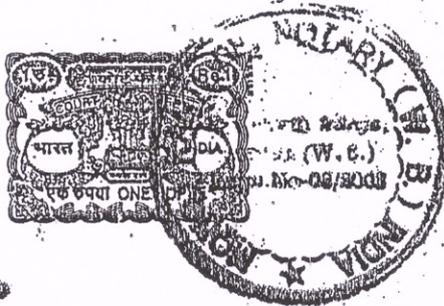
Pass such other order and/or orders as your Honour may deem fit and proper.

AND for such act of kindness your petitioner as in duty bound shall ever pray.

Dated The **1st** day of **September 2014**



Shamila Jadhav



Sharmila Das

Notary Public Seal
Kolkata, West Bengal

--: (4) :--

AFFIDAVIT

I, **Amit Kumar Das**, aged about 60 years, son of Late Bishnu Pada Das, by faith- Hindu, by Occupation- Service, residing at EC-130, Salt Lake City, Sector-I, Kolkata- 700064 and also at 49, Suri Lane, P.S.- Muchipara, Kolkata- 700014, represented by his true and lawful attorney **SHARMILA DAS**, wife of Amit Kumar Das, aged about 55 years, by faith- Hindu, by Occupation- Teacher, residing at EC-130, Salt Lake City, Sector-I, Kolkata- 700064 and also at 49, Suri Lane, P.S.- Muchipara, Kolkata- 700014, do hereby solemnly affirm and declare as follows :-

76
10 SEP 2014

- (a) That I am one of the Respondents of the instant appeal and I am well conversant with the facts and circumstances of the instant application.
- (b) That the statements made in the foregoing paragraphs from para (1) to (9) are all true.
- (c) That the rest are my humble submission at the time of hearing.

That the above statements are all true to the best of my knowledge and belief.

1st Sep 2014
M. K. Das

M. K. Das
NOTARY (W.B.)
Kolkata, West Bengal

10 SEP 2014

10 SEP 2014

Sharmila Das
Consent Attorney
10/9/14

B. K. Banerjea

Professional Address :
C.M.M's Court Compound
2, Bankshall Street,
Calcutta - 700 001

8 C²²

Notary, Govt. of India.
CALCUTTA & 24-PARGANAS

Notarial Certificate

(Pursuant to section 8 of The Notaries Act, 1952)

TO ALL TO WHOM THESE PRESENTS shall come, I, B. K. Banerjea,
being duly authorised by the Central Government to practice as a NOTARY,
do hereby verify, authenticate, certify, attest as under the execution of the
instrument annexed hereto collectively marked "A" on its being executed,
admitted and identified by the respective signatories as to the matters
contained therein, presented before me.

According to that this is to certify, authenticate and attest that the
annexed instrument "A" is the *Original Power of Attorney*

Executed by *Dei Anil Kumar Das* as

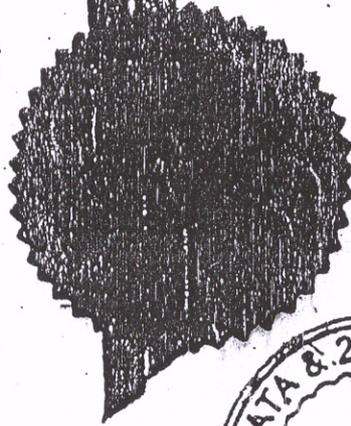
Per the Same

PRIMA FACIE the annexed instrument "A" appears to be in the USUAL
procedure to serve and avail as needs or occasions shall or may require
for the same.

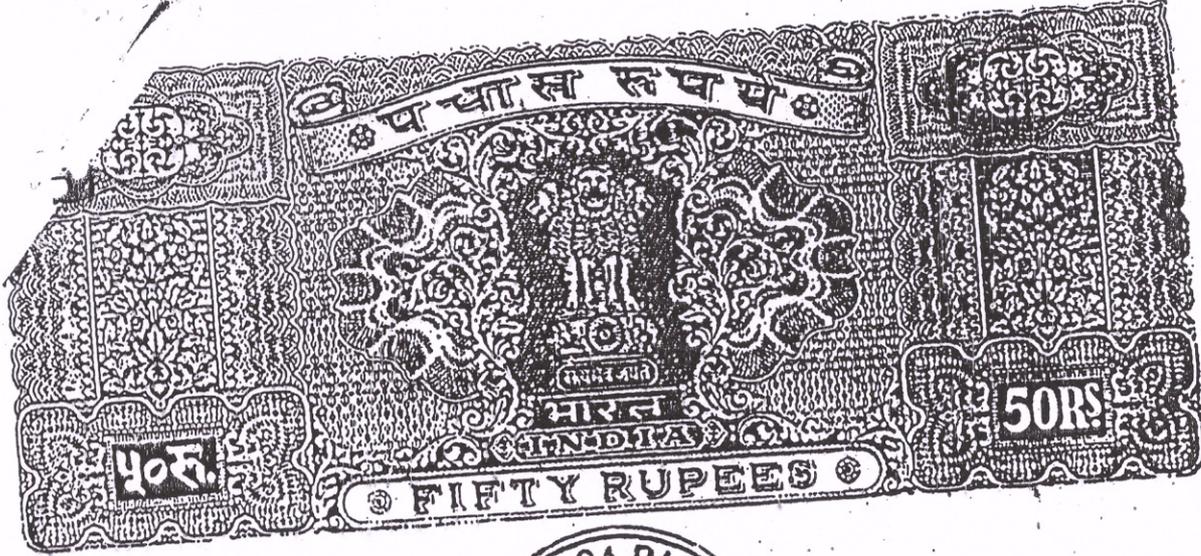
IN FAITH AND TESTIMONY
WHEREOF being required of a
NOTARY, I, the said notary do
hereunder subscribe my hand and
affix my seal of office at Calcutta
on this the *8th* day of *Feb.*
in the year of Christ *1920*,

B. K. Banerjea
NOTARY

08/2/200



50 Rs.



GENERAL POWER OF ATTORNEY

THIS INDENTURE OF GENERAL POWER OF ATTORNEY

EXECUTED this 8th day of February, 2002.

BY

I, **SRI AMIT KUMAR DAS**, son of Late Bishnupada Das, by faith - Hindu, by occupation - Service, by Nationality - Indian, ordinarily residing at Block - EC - 130, Salt Lake City, Police Station - North Bidhannagar, Calcutta - 700 064, do hereby nominate, appoint and constitute **SMT. SHARMILA DAS**, wife of Sri Amit Kumar Das, by faith - Hindu, by occupation - Service, by Nationality - Indian,

SHMAL KUMAR BANERJEE
NOTARY
CMM'S Court Compound
2 Barkshall Street
Kolkata-700001

CMM'S Court Compound
2 Barkshall Street
Kolkata 700001

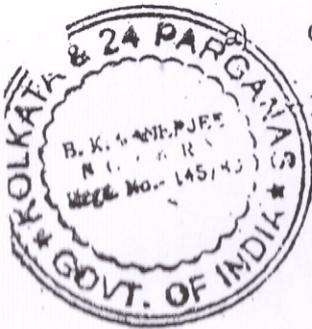
residing at Block - EC - 130, Salt Lake City, Police Station - North Bidhannagar, Calcutta - 700 064, as my true and lawful constituted Attorney for doing and/or performing the acts, deeds and things as stated hereinafter.

1. **BACKGROUND :**

One Bishnupada Das since deceased was a lessee of a Leasehold property along with one Smt. Arati Das for a period of 999 years by virtue of a registered Deed of Lease dated 20th August, 1970, which was registered in the office of the Sub-Registrar, Cossipore Dum Dum, in the District of North 24-Parganas and was recorded in Book No. I, Volume No. 95, pages 73 to 79 being No. 6162 for the year 1970 in respect of **ALL THAT** a lease hold land measuring 4.2395 Cottahs be the same a little more or less being Plot No. 130, Block EC, Sector - I, of the Northern Salt Lake City Extension Area.

- b) The original Lessee No. 1 as named above was a Hindu Governed by 'Dayabhaga' School of Hindu Law died intestate on 15.07.1990 leaving behind Smt. Arati Das (mother), my self (son) and Smt. Anjana Chanda (daughter) as his legal heirs and representations.

BIMAL KUMAR BANERJEE
NO ARY
 CMM'S Court Compound
 2, Barkshill Street
 Kolkata 700001



- c) At the death of the original Lessee No. 1, his properties including the Lease hold property and thereafter referred to as the Lease hold Property devolved upon his said heirs and legal representatives therein.
- d) I myself have 1/3rd (one third) undivided share of 50% share in the Lease hold property.
- e) Due to various circumstances and preoccupations for which I am unable to personally be present I grant this power to my wife as named above as my Attorney to do the following acts in respect of the said 1/3rd undivided share of 50% share of the lease hold property.



NOW THIS POWER OF ATTORNEY WITNESSES AS FOLLOWS :-

2. SUBJECT MATTER OF POWER OF ATTORNEY :

ALL THAT the 1/3rd (One Third) share of 50% undivided share of the land measuring 4.2395 Cottahs be the land a little more or less, Plot No. 130 in Block - EC together with Ground storied brick built structure and garage space measuring in total 1500 Sq.ft. built up area in Sector - I of the Northern Salt Lake City Extension Area in the District of 24- Parganas (North), Police Station - Bidhannagar (North), West Bengal.

BIMAL KUMAR BANERJEE
NO. 130
CMM'S Court Compound
2, Bankshall Street
Kolkata - 700001

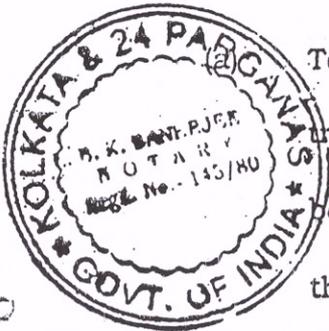
3. APPOINTMENT :

The Owner do hereby nominate constitute and appoint SMT. SHARMILA DAS, wife of Sri Amit Kumar Das, by faith.- Hindu, by occupation - Service, by Nationality - Indian, residing at Block - EC - 130, Salt Lake City, Police Station - North Bidhannagar, Calcutta - 700 064, as the true and lawful Attorney to do all acts, deeds and things mentioned herein below in respect of the Schedule premises.

4. POWERS AND AUTHORITIES :

To apply for obtaining permission for assigning and/or transferring the said undivided 1/3rd share of the 50% share before the competent authorities and to obtain permission thereof.

- (b) To present the Deed of Conveyance or Conveyances and/or Deed of Lease and/or any Deed of Transfer before any competent Registration Authority for admission and completion the same and sign all the necessary papers as may be required and to do all acts deeds and things which our Attorney shall consider necessary for conveying being the said undivided 1/3rd share of the 50% share of the property as described in the Schedule



SUNIL KUMAR BANERJEE
NOTARY
COMM. No. 145/HU

(c) To receive from the intending assignee or assignees any earnest money and/or advance or advances and also the balance of purchase money and to give good, valid receipt and discharge for the same which will protect the assignee or assignees.

(d) Upon such receipt as aforesaid on my behalf and as my act and deed to sign, execute and deliver conveyance or conveyances of the said property in favour of the assignee and/or assignees or his/her/their nominee or nominees, as the case may be.



(e) To sign and execute all other deeds, instruments and assurances which she will consider necessary and to enter into and/or agree to such covenants and conditions as may be required for fully and effectually conveying and/or assigning the said property as I could do myself, if personally present.

BIMAL KUMAR BANERJEE

NOTARY

CMMS Court Compound

3 Banksha (II) Street

Kolkata 700001

To present such conveyance or conveyances for registration to admit execution and receipt of consideration before the Sub-Registrar and/or Additional District Sub-Registrar

having authority for and to have the said conveyance and/or conveyances registered and to do all acts, deeds and things which our said Attorney shall consider necessary for conveying and/or transferring the said property to the assignee or assignees as fully and effectually in all respect as I could do the same myself.

- (g) To represent me before all the statutory offices including the Municipality, U.D. Department and sign all the application including building sanction plan and revised plan thereof, apply for electricity before the West Bengal State Electricity Board, to apply for obtaining clearance certificate in respect of the building on completion on my behalf in respect of the said property.



- (h) I hereby further direct that notwithstanding anything contained hereinbefore, it is made clear that the present General Power of Attorney is limited to the said undivided 1/3rd share of the 50% share of the said property and I do hereby confirm and undertake to ratify that all acts, deeds and things whatsoever my said attorney shall lawfully do or cause to be done by my said Attorney will be treated as acts

SIMAL KUMAR BANERJEE
 NOTARY
 CMM'S Court Compound
 2 Barkshail Street
 Kolkata-700001



done by me as I could do the same if, I were personally present by virtue of this power.

THE SCHEDULE ABOVE REFERRED TO :

ALL THAT the 1/3rd (one Third) share of 50% undivided share of the land measuring 4.2395 Cottahs be the land a little more or less, Plot No. 130 in Block - EC together with Ground storied brick built structure and garage space measuring in total 1500 Sq.ft. built up area in Sector - I of the Northern Salt Lake City Extension Area in the District of 24- Parganas (North), Police Station - Bidhannagar (North), West Bengal and the same is butted and as follows :-

- ON THE NORTH ; By Plot No. 24 (5k), 25 (5k and 129 (4k) in Block EC;
- ON THE SOUTH ; By Plot No. 131 (4k), in Block EC & Type VI Road;
- ON THE EAST : By Plot No. 129 (4k), in Block EC & Type VI Road;
- ON THE WEST : By Plot No. 24 (5k), 131 (4K) AND 129 (4K) in Block EC;

R. K. BANERJEE
NOTARY
 CMM'S Court Compound
 2 Bankshall Street
 Kolkata-700001

IN WITNESS WHEREOF I the executant have executed this
General Power of Attorney on this the 8th day of February, 2002.

SIGNED AND DELIVERED

In the presence of :

WITNESSES:-

1. Vedantika Das
B.C. 130, Salt Lake City,
~~Calcutta - 700012~~
Calcutta - 700

V. Das

Amit Kumar Das.

SIGNATURE OF THE PRINCIPAL

Accepted by me

2. Prabir Paul
210, Srinagar
Medhyanagar
~~Calcutta - 700012~~
Calcutta - 700129

Sharmila Das

SIGNATURE OF THE ATTORNEY

INSTRUMENT "A" REFERRED IN
THE NOTARIAL CERTIFICATE


B.K. BANERJEE
NOTARY

08/2/2002

Identified by me
Kann Chandra
Advocate

BIMAL KUMAR BANERJEE
NOTARY
CMM'S Court Compound
2 Bankshall Street
Kolkata-700001



NOTARIAL CERTIFICATE

To all to whom these presents shall come, I, Basudev Gopal duly appointed by the Govt. of West Bengal as NOTARY and Public within the District of North 24-Prgs. Union of India, do hereby attest that the Paper Writing 'A' are presented before me by the executant/s.

Mrs. Arati Das
Mr. Amit K. Das
Mrs. Anjana Chandra
Principals
opts to confer
in favour of
Mr. Jagannath Das
Const. Attn.
by this
General Power of At.

thereinafter referred to as the Executant this the
of April 2002.

THE EXECUTANT having admitted the execution on the
Writing 'A' and being satisfied as to the Identity of the executant
attested the execution.

In faith and Testimony whereof, I the said NOTARY have
subscribed my name and affixed my seal of office on this the
day of April 2002.

12th

12th



B.G.

NOTARY

BASUDEV GO
Regn. No. 1
21/A/2, Motilal
Dum C
Kolkata-7
Phone : 551-6

50-Rs.

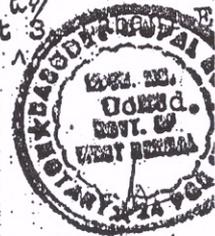


A

Before the Ld. Notary Public
24 Perganas North
Govt. of West Bengal
GENERAL POWER OF ATTORNEY



NOW ALL MEN BY THIS POWER OF ATTORNEY THAT We
wife of Late Bishnu Pada Das, by faith Hindu, by
Housewife, residing at EC-130, Sector-I, Salt Lake City, P.S. Bidhannagar, Kolkata - 700 064 and MR. AMIT KUMAR DAS, by faith Hindu, by occupation Business, residing at EC-130, Sector-I, Salt Lake City, P.S. Bidhannagar, Kolkata - 700 064, and MRS ANJANA CHANDA (wife of Dr. Bikash Chanda) daughter of Late Bishnupada Das, residing at 23/D Badiraipur Road, P.O. Jadavpur, Kolkata 700 032, hereinafter called and referred to as the "PRINCIPAL" do hereby nominate, constitute, retain and appoint as Constituted Attorney, SRI TARUN KUMAR DAS, son of Late Santi Ranjan Das, by faith Hindu, by Occupation Business, residing at 3



Amit Kumar Das
Anjana Chanda

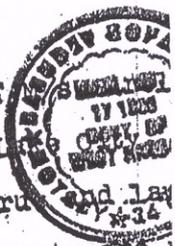
12-04-

Amit Kumar Das

12-0.

-: (2) :-

Salt Lake City, Sector-I, Kolkata-700 064, proprietor of having its registered office at ^{CD-295} EC-100, Sector-I, Salt Lake City, Kolkata - 700 064, hereinafter called Attorney to be our true and lawful Attorney to act in our names and on our behalf to do execute and perform all or any of the acts, deeds, matters and things in respect construction of two floors only (1st and 2nd floors) over the existing one storied building with garage particularly described in Part-I of the schedule hereunder written and hereinafter referred to as the Principals area along with undivided proportionate share of land and common area attributable to the said two floors of the building Plot No. 130, Block-EC, in sector-I of the Northern Salt Lake City Extension Area, District North 24-Parganas morefully described in Part-II of the schedule hereunder written and hereinafter referred to as 'the said two floors'.



Amit Kumar Das

1. Power to construct 1st and 2nd floor and sell/transfer/a mortgage inducting tenant whatsoever, save and except the ground floor, the Vendors have no right, title, interest upon the 1st floor and 2nd floor except proportionate share and easement right.

Anadi Das

1A. To pay the annual lease, rent, rates and taxes and/or other duties and charges to the competent authority to make/ratify applications against enhancement of taxes in respect of the said 1st and 2nd floors.

2. To supervise, control and look after two further floors (1st and 2nd floors) over the existing one storied building along with the undivided proportionate share of land and common space attributable to the said two floors of the building at Plot No. 130,



Amit Kumar Das

12-04

-: (3) :-

Sector-I, of the Northern Salt Lake City, Eastern
Area, District North 24-Parganas by our said



3. To apply for water, sewerage, electricity, telephone connection and gas connections and other necessary connections and all other acts and deeds which are required for making the said 1st and 2nd floors habitable.
4. To obtain necessary certificates or completion certificate of the said 1st and 2nd floors of the said premises from the competent authority and to make the said two floors habitable.
5. To appear in all the office of the Metropolitan Development, now renamed as Urban Development Department, Bidhan Nagar Municipality and/or other competent authority in respect of all matters relating to the said 1st and 2nd floor of the said premises.
6. To represent us before the competent authority or any authorities for the purpose of assignment of lease, sub-let, sub-lease and/or agreement for tenancy and/or agreement for transfer of the leasehold right of the said 1st and 2nd floors over the existing building along with undivided property.

Anil Das



Anil Kumar Das

12-04-2002

-: (5) :-

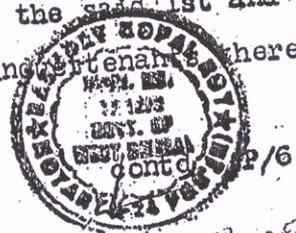
land and common space of the building attributed to the said 1st and 2nd floor at Plot No. 130 in Sector-I of the Northern Salt Lake City, Area, District North 24-Parganas and to sign on our behalf all the papers aforesaid and to execute necessary documents admit execution on our behalf and present the same for registration before competent registrar and/or sub-registrar and to receive the original document when registered, in respect of the said two floors.



7. To retain and appoint Advocates, Lawyers and other law agent and revoke and/or cancel such appointment from time as the attorney shall think fit and proper, in relation to the said 1st and 2nd floor of the said premises.

8. To make sign, execute, affirm, and verify all or any written statement, memo of appeals, revisions, applications, petitions, affidavits, declarations, vokalatnamas and other documents as may from time to time be required, in relation to the said 1st and 2nd floor of the said premises.

9. To give notice of ejection and to take all steps for ejection of tenants and occupiers of the said 1st and 2nd floors of the said premises and in default thereof as and when necessary.



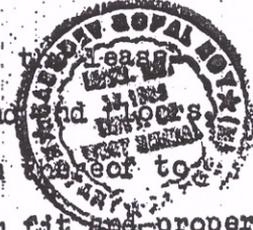
12-04-2002

Amit Kumar Das

Amal Das

-: (6) :-

10. To negotiate, let-out, assign, transfer of the leasehold right attributable to the said 1st and 2nd floors in respect of the said premises or portion thereof to any person as our said attorney shall deem fit and proper at a consideration which our attorney shall consider appropriate and shall receive the same and give proper receipts thereof to sign all documents as may be required and also to appear before the Municipal Authorities, Salt Lake, Bidhan Nagar, Government Authority, Collector of any District, Sub-Divisional Officers, any Id. Magistrate, Id. Judge, Id. Munsiff and/or Judicial and other competent authority or authorities, in respect of the above mentioned floors.

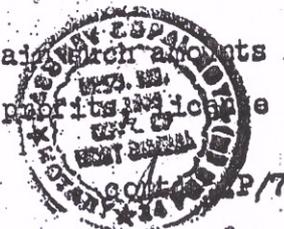


11. To withdraw money deposited in any Court, Acquisition Office, Rent Controller and/or from any other authority etc. in respect of the said 1st and 2nd floors of the said premises.

Asst. Com

12. To collect, demand sue for and receive all rents, interest, profits, license fees, occupation charges etc. from the said 1st and 2nd floors of the said premises or in respect of any portion thereof and to give receipts for the same.

13. To receive, adjust, pay, return, retain, which amounts received by way of rents, interest, profits, license fees



Amit Kumar Das

12-04-2002

-: (7) :-

fees, occupy charges etc. against construction of building materials expenses borrowing etc. to the said 1st and 2nd floors of the said premises.



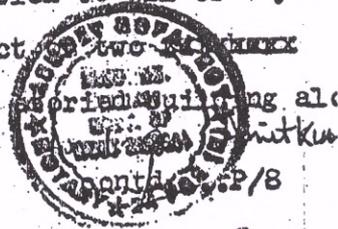
14. To accept and withdraw any compensations payable for acquisition or compulsory purchase, requisition or hiring of the said 1st and 2nd floors of the demised property or part thereof by the Government of any competent body or authority.

15. To initiate, defend, settle and compromise all or any legal proceedings, litigations, disputes and differences concerning or relating to the said 1st and 2nd floors of the said premises or portion thereof for such consideration and on such terms and for the said purposes to sign, execute, affirm and verify all compromise settlement and other papers and documents.

Asst. Secy

16. This Power of Attorney is irrevocable till induction of tenants in respect of the said two floors.

AND GENERALLY to do execute and perform, all or any such acts, deeds or things that may be and/or in relation to all or any of the works mentioned herein before in respect of two floors (1st and 2nd) over the existing one



12-04-2002

Amit Kumar Das

-: (8) :-

with undivided proportionate share of land space attributable to the said two floors ding at Plot No. 130 Block-EC in Sector-I of the Northern Salt Lake City, Extension Area, District North 24-Parganas.



AND we do hereby agree to ratify and confirm all such acts, deeds and things whatsoever our said attorney shall lawfully do or cause to be done in connection with said two floors of the said premises.

THE SCHEDULE ABOVE REFERRED TO :

P A R T - I

ALL THAT entire ground floor roof right over the land measuring 4.2395 Cottahs be the same a little more or less lying and situated under Plot No. 130, in the Block-EC in Sector-I, of the Northern Salt Lake City extension area within the jurisdictions of Salt Lake Police Station within the Municipal limits of Bidhannagar Municipality, Additional Dist. Sub-Registrar Office at Bidhannagar, Salt Lake City in the district of North 24-Parganas which is butted and bounded as follows :-

Arati Das

ON THE NORTH : Plot No. 24 (5K) 25 (5K) and 129 (4K) in Block-EC.

ON THE SOUTH : Plot No. 131 (4K) in Block-EC, Sector-I, VI Road.



Contd. 13/19

12-04-2001

Anil Kumar Das

-: (9) :-

ON THE EAST : Plot No. 129 (4K) in EC Block VI Road.

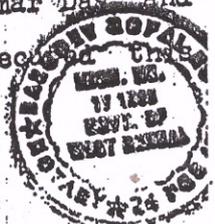
ON THE WEST : Plot No. 24 (5K) in Block



PART - II

All that the 1st and 2nd floors to be constructed over the existing one storied building in the above mentioned premises and undivided proportionate share of interest in the land attributable to the said two floors.

IN WITNESS WHEREOF We the said Anati Das, Amit Kumar Das and Miss Anjana Chanda the appointors have hereunto executed and presents this 11th day of APRIL 2002.



SIGNED SEALED AND DELIVERED

by the said Appointment at Kolkata in presence of :

Anati Das

1. Ulfam Kr. Bharati -
CO-295, Salt Lake -
Cal-64,

2. Sharmila Das.
EC-130, Salt Lake,
Cal-64

Drafted by :

Pinaki Chattopadhyay, Adv.
NC-36, Arjunpur North,
Kolkata-700 059.
Phone - 479 3450.

Typed by :

Anati Das
ARATI DAS

Amit Kumar Das
AMIT KUMAR DAS

Anjana Chanda
ANJANA CHANDA
Principals

Tarun Kumar Das
TARUN KUMAR DAS

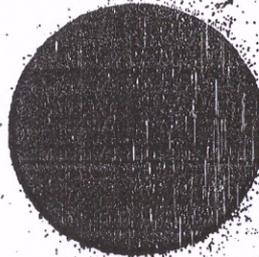
Attorney.

Signature
Attested By Me

On 12-04-2002

B. G. Roy
B. G. ROY
NOTARY
Amit Kumar Das

Dated, the 12-04, 2002



In the Matter Of

- a) Notarial Certificate
- b) Paper Writings 'A'

A NOTARIAL WORK
DONE BY

BASUDEV GOPAL ROY

NOTARY
24 Parganas (North)
Regd. No. 17/1996
Govt. of West Bengal

AT
SALES TAX BAR ASSOCIATION
(1st Floor)
SALT LAKE
KOLKATA

10 E 71

DISTRICT: NORTH 24-PARGANAS

IN THE COURT OF LD. 3RD ADDITIONAL DISTRICT JUDGE AT BARASAT

TITLE APPEAL NO. 36 OF 2012

TARUN KUMAR DAS

----- Appellant

-Versus-

SMT. ARATI DAS & ORS.

----- Respondents

WRITTEN OBJECTION ON BEHALF OF THE APPELLANT
TO THE APPLICATION SUBMITTED ON BEHALF OF THE RESPONDENT NO. 3
SHOWING CAUSE (FOR BEING ALLOWED TO APPEAR IN THE APPEAL)
AND
THE APPLICATION FOR VACATING THE ORDER FOR EX-PARTE HEARING OF
APPEAL

The humble petition of objection on
behalf of the Appellant abovenamed

Most Respectfully Sheweth:-

1. The applications under reply for showing causes to enable appearance and for vacating the order fixing the appeal for ex-parte

hearing, filed by Amit Kumar Das through his alleged Constituted Attorney, under an alleged General Power of Attorney executed on 08.02.2002 in favour of his wife Sharmila Das, at this juncture is on the face of the record an act of fraud and the same has been taken out in a malafide manner to deceive and defraud the Appellant.

I humbly state and submit that the said Amit Kumar Das was untraceable for quite a long time after declaring himself insolvent by an order dated 07.03.2003 of the Hon'ble High Court at Calcutta in IC No. 2 of 2003 surfacing at times when he needed money and then again going underground and making himself untraceable once again. With such a dubious past record he should have come forward before this learned Court in person to contest the case, if at all, instead of appearing through his purported legally constituted attorney through a purported Power of Attorney the veracity of which is suspect. I say that the purported Power of Attorney which forms the basis of the applications under reply is a manufactured document for the purpose of contesting the instant appeal and thus being suspect this learned Court would be pleased to ascertain the veracity of the same as a preliminary point before adjudication into the merits of the said applications.

I humbly submit that if it is found that the said purported Power of Attorney is a manufactured document then this learned Court would be pleased to initiate proceedings under Section 195 read with Section 340 of the Code of Criminal Procedure, 1973 for launching of prosecution for

the offences committed by Shri Amit Kumar Das aided and abetted by his wife Sharmila Das, which offences are against public justice and are liable for prosecution inter alia under the provisions of Sections 177, 182, 193, 196, 199, 200, and 209 of the Indian Penal Code.

In this context, it would not be out of place to mention that it is now well settled by judgements of the Hon'ble Supreme Court, one being Chandra Shashi Vs: Anil Kumar Verma, to which I crave leave to rely upon at the time of hearing, that contempt jurisdiction has been conferred not only to preserve the majesty of law by taking appropriate action against one howsoever high he may be, if he violates court's orders, but also to keep the stream of justice clear and pure so that the parties who approach the courts to receive justice do not have to wade through dirty and polluted water before entering their temples.

I, therefore, humbly submit that in view of such facts and circumstances in the instant case as elucidated hereinbefore, this learned Court would be pleased to exercise jurisdiction under Section 10 of the Contempt of Courts Act, 1971. I crave leave to make further submissions in this regard at the time of hearing of the instant application.

2. A short list of relevant dates is given here below to enable this learned Court to ascertain the factual position:

20.08.1970	Deed of Lease executed
15.07.1990	Death Certificate of one of the original Lessees Bishnupada Das
11.04.2002	Agreement for Assignment executed by and between the appellant and the defendants
11.04.2002	General Power of Attorney executed by the appellant and the defendants in favour of the appellant
12.11.2002	
02.12.2002	
05.12.2002	
06.12.2002	
30.07.2007	
04.10.2008	Money receipts evidencing receipt of money by the defendants from the appellant
20.03.2007	Declaration of insolvency of Amit Kumar Das, defendant No. 3 by the Hon'ble High Court in Insolvency Case No. 1C-2 of 2003
29.05.2007	Compromise petition filed in T. S. No. 103/03
29.05.2007	Order of non-prosecution of T. S. No. 103/03
16.04.2008	Irrevocable Power of Attorney executed by the defendants in favour of the appellant

3. In the backdrop of the above before dealing with the statements contained in the said applications I say that the said applications are neither maintainable in law nor on facts.

1. On facts:

- i. It is a matter of record that Amit Kumar Das had been one of the signatories to the agreement executed on 11.04.2002 along with the respondent Nos. 1, since deceased, and 2 and that it is a matter of record that while executing the said agreement along with certain other agreements and declarations authorizing the appellant to develop the suit property, the respondents received the total sum of Rs. 9,26,000/-. The document dated 11.04.2002 is lying with the record along with the original money receipts evidencing such payment.

A copy of the said agreement is filed herewith and marked as "Annexure-A" hereto.

- ii. It shall appear from the said agreement that on the said date Amit Kumar Das, the respondent No. 3 did put his signature on the said document and he also executed a Power of Attorney on the same day empowering his mother, the respondent No. 1, since deceased, to represent him as the Constituted Attorney and reference to such Power of Attorney has been made in the body of the said agreement dated 11.04.2002.

A copy of the Power of Attorney executed by the respondent No. 3 authorizing the respondent No. 1, since deceased, to act as his Constituted Attorney is filed herewith and marked as "Annexure-B" hereto.

iii. It is also a matter of record that the respondent No. 1, since deceased, ventured to file the Title Suit No. 103 of 2003 in the court of the Ld. Civil Judge (Senior Division) at Barasat making your petitioner as also the other respondents parties in the said suit challenging the aforesaid Agreement and understanding and that ultimately the aforesaid suit was discontinued and the same was dismissed as withdrawn on 29.05.2007.

iv. It is also a matter of record that after the dismissal of the aforesaid Title Suit No. 103 of 2003 the respondent No. 1, since deceased, for self and being Constituted Attorney of the respondent No. 3 received a further sum of Rs. 1,02,000/- by A/c payee cheque dated 30.07.2007 and a further sum of Rs. 25,000/- by cash on 04.10.2008.

A copy of the money receipt showing such further payment is filed herewith and marked as "Annexure-C" hereto.

- v. At this juncture the respondent Nos. 1, sine deceased, and 2 again executed another General Power of Attorney on 16.04.2008 admitting the execution of the previous documents and the development agreement.

A copy of the said document dated 16.04.2008 is filed herewith and marked as "Annexure-D" hereto.

- vi. Under the aforesaid facts and circumstances when the respondents in conspiracy with each other again tried to interfere with the development activity of the appellant in the suit premises, the suit had been filed before the Ld. Trial Court below being Title Suit No. 205 of 2010.

The respondent No. 1, since deceased, had been duly served with the summons of the Title Suit No. 205 of 2010 before the Ld. Trial Court below who had been the Constituted Attorney of the respondent No. 3. The other respondents also did not appear in the suit inspite of service of summons and accordingly the Ld. Trial Court below after accepting the service of summons set down the suit for ex-parte hearing and disposed of the suit ex-parte which is the subject matter of the instant appeal.

- vii. Since none of the respondents do have any justified defence for them choosing not to appear before the Ld. Trial Court below the suit has accordingly been disposed of ex-parte. It is a matter of record that the notice had been inserted in the newspaper as per direction of the Ld. Trial Court below when the respondents did not enter appearance inspite of service of summons by other available mode.

A copy of the two newspaper insertions in Aajkaal dated 17th July, 2011 and 04th August, 2013 are filed herewith and marked as "Annexure-E" hereto.

II. In law:

- i. the purported Power of Attorney which forms the basis of the applications under reply is a manufactured document for the purpose of contesting the instant appeal; hence the said applications are not maintainable.

Even assuming that the said purported Power of Attorney was ever executed in accordance with law the subsequent conduct of the respondent No. 3

belies his having acted in accordance with the said purported Power of Attorney and therefore the said purported Power of Attorney became non est in the eye of law and any purported action sought to be taken thereunder would also become non est in the eye of law.

- ii. The respondent No. 3 who did not appear before the Ld. Trial Court below and who had been although represented by the respondent No. 1, since deceased, being his mother and Constituted Attorney, cannot now take out the application inspite of not entering appearance in the appeal even after service of notice, or can lawfully or otherwise seek indulgence of this Ld. Court for contesting the appeal when the impugned judgement had been delivered ex-parte for the non-appearance of the respondent No. 3 inspite of due service of summons.
- iii. The applications have been taken out in a malafide manner by the respondent No. 3 who never sought to deny the allegations in the plaint before the Ld. Trial Court by submitting his written statement. The defendant who had no occasion to deny the allegations stated in the plaint in the Ld. Trial Court

cannot at this juncture intervene in the instant appeal taken out by your petitioner / appellant against the ex-parte judgement and decree as now the appeal is in between the Ld. Court and the appellant.

- iv. It is a matter of record that the respondent No. 3 had been declared insolvent by the Hon'ble High Court at Calcutta in I.C. No. 2 of 2003 on 07.03.2003.

After such declaration of insolvency he cannot contest the case which relates to an immovable property not acquired by him subsequent to such declaration of insolvency but which is an immovable property interest whereof was acquired by him by virtue of hereditary succession prior to his declaration of insolvency.

Your appellant craves leave to rely upon all the relevant documents and make further submissions at the time of hearing.

4. The appellant states that it could also be that Smt. Sharmila Das, wife of the said respondent No. 3 has ventured to fabricate and manufacture a Power of Attorney dated 08.02.2002 and got the same notarized in conspiracy with the Notary Public B.K. Banerjee and by forging the signature of the respondent No. 3. Hence this learned court

would be pleased to consider this aspect of the matter also and pass necessary orders for delivering substantive justice.

5. It is to also place on record that the respondent No. 2 entered appearance in the instant appeal and has supported the case of the appellant by filing an application to the said effect which is part of the records herein.

6. It is humbly submitted that considering the circumstances the respondent No. 3 may be directed to personally appear before this Ld. Court for comparing his alleged signature appearing in the purported Power of Attorney produced by his wife Sharmila Das in order to ascertain the factual position and for the ends of Justice.

7. It is submitted that the show cause application filed by the respondent No. 3 through his alleged Constituted Attorney is absolutely bogus and the same does not explain any reasons or grounds which could be accepted at this juncture for setting aside the order fixing the appeal for ex-parte hearing.

8. It is therefore submitted that the applications for showing cause and setting aside or re-calling the order fixing the appeal for ex-parte hearing be rejected with exemplary costs.

It is therefore, prayed that the applications under reply may be rejected with exemplary costs, and proceedings initiated under Section 195 read with Section 340 of the Code of Criminal Procedure, 1973 for launching of prosecution for the offences committed by Shri Amit Kumar Das aided and abetted by his wife Sharmila Das, which offences are against public justice and are liable for prosecution under the provisions of the Indian Penal Code and, / or pass such other order or orders as your Honour may deem fit and proper.

AFFIDAVIT

I, Tarun Kumar Das, son of Late Santi Ranjan Das, aged about 59 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 say as follows :

1. That I am the appellant in the above case and am well conversant with the facts and circumstances of the case and I am competent to file the instant suit.

2. That the statements made in paragraphs 1 to 5 are true to my knowledge derived from the records which I verily believe to be true and the rest are my respectful submissions before this Learned Court.

I sign this affidavit on this the _____ day of _____, 2014 at the court premises.

Deponent

Identified by me

Prepared in my office

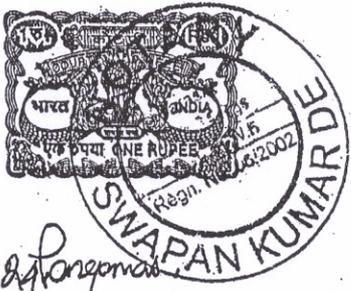
Advocate

Advocate

Received with objection on 23/3/15

6/79

BEFORE THE NOTARY PUBLIC
Barasat, North 24 Parganas



Sharmila Das

Case - North 24 Parganas

In the Court of S. B. Adl. Dist. Judge at Barasat.

T. A. 30/12

Tarun Das vs Anit Das
Appellants Respondents

Adjunct in opposition against the written objection filed by the appellants

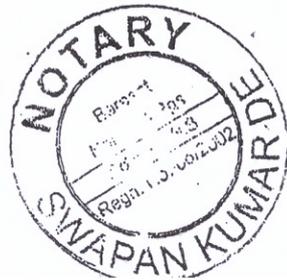
The Ad. Assent for the appellant is not calculable in his name, hence the copy is enclosed herein.

SI. No. 149/2014

23 MAR 2015

I, Sri Anit Das as 2nd husband of Sri Anit Das, Bishompada Das by caste Hindu by occupation - Service permanent resident of Block EC-120, Salt Lake City, P. O. North Bishampur, Kolkata - 700043, represented by Sharmila Das being the true and lawful attorney of Anit Das do hereby solemnly affirm and declare as follows:-

- 1) That the instant written objection is vague, frivolous, having no leg to stand upon, hence it should be held a fair game. This is true to my knowledge.
- 2) That the instant written objection is bad in law and fact as such not tenable in the eye of law. This is true to my knowledge.
- 3) That I state that the power of attorney executed by me in favour of my wife Sharmila Das is genuine and not manufactured as stated by the appellants. This is true to my knowledge.
- 4) That since the power of attorney dated 8/2/2008 is genuine, the question of initiating the alleged proceeding against the respondent no 3 and his attorney does not arise at all and no offence as alleged was committed by any one of us. This is true to my knowledge.
- 5) That I submit that so far the power of attorney dt 11.4.2002 is concerned, it was cancelled by the respondent, and not revocable power of attorney was executed by the respondent no 3 in favour of the appellants on 16/4/2008. The documents submitted by the appellants with his written objection purported to be dated 16.8.08 does not bear the signature of the respondent and the alleged power of attorney can not delegate the power conferred upon her as per law. This is true to my knowledge.
- 6) That the respondent no 3 submits that the alleged power of attorney dt 11.4.2002 has been revoked by him. This is true to my knowledge.



Shamika Jais

(2)

7) The Respondent no 3 can not remember whether he at all executed any power of attorney in favour of his mother and if it be at all, that is deemed to be revoked / cancelled on the death of his mother. The appellants has not served any copy of power of attorney to the respondent, as such he is not in a position to make any comment. — This is true to my knowledge.

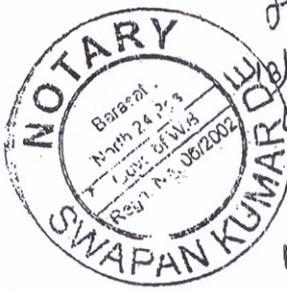
8) That the Respondent no 3 has no knowledge whether alleged Rs. 105/03 was at all filed by the Respondent no 3 (Since deceased) against him and/or about it's withdrawal. — This is true to my knowledge.

9) That the respondent further states that he has no knowledge as to whether the Respondent no 1 at all received the alleged amount from the appellants on his behalf as his constituted attorney. — This is true to my knowledge.

10) That the Respondent no 3 does not know about the execution of the alleged power of attorney dt 16.8.2008 as he was not the party to the said instrument. — This is true to my knowledge.

11) That the Respondent has no knowledge as to whether the alleged T-2205/10 was at all filed and its result prior to appearance in the instant appeal since he was not served with any summons. — This is true to my knowledge.

12) That the Respondent states that the power of attorney which forms the basis of respondent's application is not manufactured because it was executed in the year 2002 by the Respondent himself in favour of his wife which has had force for appearance by the attorney as well as the filing of the instant application. — This is true to my knowledge.



13) That the Respondent no 3 if can will appear personally in court when he has been called by the appellants to appear in this appeal as party Respondent. ^{created a fresh power of attorney in favour of his wife Shamika Jais dt 5/8/2014} This is true to my knowledge.

14) That since no notice was served upon him, the respondent has no scope to appear in the lower court and to file his appeal. The respondent has every right to appear in this appeal when he is of the Respondent and the instant appeal is between the app and the respondent and not the court. — This is true to my knowledge.

15) That the respondent states that when it has come to his knowledge that he has been made party to the instant appeal he has

Contd. P.

(3)

Every right to appear and to contest the instant appeal, whatever might be his status. This is true to my knowledge.

(6) That the Respondent no 3 states that Sharmila Das has not fabricated nor manufactured the power of attorney dt 8/2/2005, nor it is notarised in conspiracy with the Notary Public D.K. Banerjee and nor the signature of the Respondent no 3 was forged by her. This is true to my knowledge.

17) That the Respondent no 2 has conspired with the appellants, as she supported the case of the appellants by filing application. This is true to my knowledge.

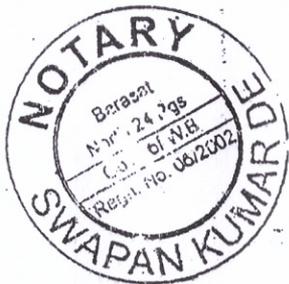
18) That the Respondent no 3 has shown cogent reason and as such show cause should be accepted and she should be given an opportunity to appear and to contest the appeal and also considering the facts and circumstances as well as legal positions written objection of the appellants should be discarded and my. This is true to my knowledge.

That the above statements are all true to me & my knowledge and belief.

Sharmila Das
Signature of the Respondent.

Identified by me.

Adv.
23/3/2015



Solely affirm before me on this 23 day of March 2015
Duly identified by [Signature] Advocate

S. K. Das
NOTARY
(Gov. of W.B.)
Barasat, Noni 24 Pargana

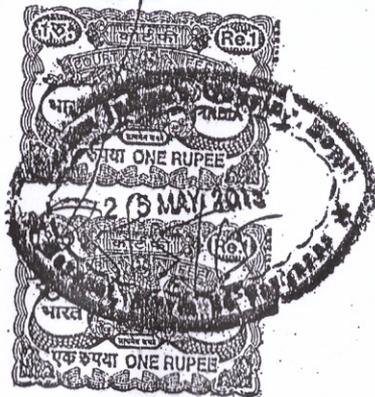
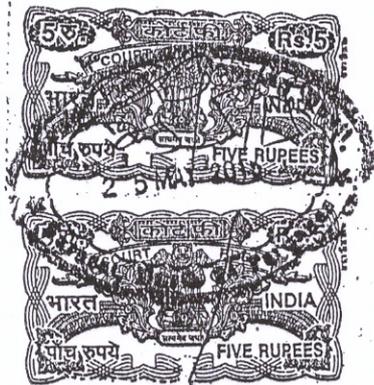
Checked by [Signature]
Notary Clerk

23 MAR 2015

LG 71

In the court of Mr Justice A. J. A. J.
at Barrow

Ref TANO. 736/2012
APNO. 6049. dt 19.5.15
Assessment dt. 25.5.15



(-51)



Checked by

324 ADJ

308
380
x 6049
0/3 2.5m

T.A. 36 of 2012

32/17.4.2015

The record is taken up for passing order in connection with the show cause application coupled with another application praying for vacating the order of ex parte hearing fixed against the respondent no. 3.

The aforesaid applications are filed on behalf of the respondent no. 3 by his lawful attorney Sharmila Das as stated in such applications. The photocopy of the power of attorney dated 08/02/2002 has been filed on record on behalf of the respondent no. 3.

It is the contention of the respondent no.3 that he did not receive any summons from the court of Ld. Civil Judge (Sr. Division) 2nd court in T.S. No. 205 of 2010 nor the summons of the present appeal and accordingly he had no opportunity to contest the suit and also take part in the hearing of the present appeal. It is further contended that he intends to contest the appeal and as such an opportunity of being heard should be extended to him following the principles of audi alterem partem.

It is stated that there was no negligence or laches on the part of the respondent no.3 and if he knew of the institution of the appeal he would have come earlier to contest the same.

The appellant filed written objection to the prayer made on behalf of respondent no.3 to contest the appeal through Sharmila Das, the lawful attorney of respondent no.3 as claimed by respondent no.3.

It is contended on behalf of the appellant that the alleged power of attorney which forms the basis of the application filed by the respondent no.3 to contest the instant appeal is a suspect as the veracity of such power of attorney is questionable. It is contended that respondent no.3 executed a power of attorney on 11.04.2002 empowering his mother, i.e. respondent no. 1, since deceased, to represent him as constituted attorney. The copy of the power of attorney dated 11.04.2002 is filed along with the written objection of the appellant.

The respondent no. 3 filed an affidavit in reply wherein he specifically stated that the power of attorney dated 08/02/2002 is genuine and that the power of attorney dated 11.04.2002 was cancelled by the respondent no.3.

I have heard the submissions of the learned counsels appearing on behalf of the respective parties and also taken into consideration the rival contentions made in the petition as well as the objection submitted thereto.

It is not disputed that respondent no.3 herein Amit Kumar Das intends to contest the appeal and filed a show cause praying for vacating the order of ex parte hearing against him. Before going into the question as to whether the order of ex parte hearing shall be vacated and the appellant

Checked by

raised a serious question with regard to veracity and genuinity of the power of attorney dated 8.2.2002 executed by respondent no. 3 on the basis of which respondent no. 3 intends to contest the appeal through his attorney i.e. his wife Sharmila Das.

I find that the existence of the two power of attorney executed by respondent no. 3 on 8.2.2002 and 11.4.2002 is not disputed between the parties. It appears from the averments made in the affidavit in reply of the respondent no. 3 that he has cancelled the power of attorney dated 11.4.2002 executed in favour of his mother. Now, a principal can cancel or revoke a power of attorney if he so desires if the power of attorney does not create any interest in favour of the agent i.e. the attorney by virtue of such power of attorney thereby making such power of attorney irrevocable in nature. I do not find the power of attorney dated 8.2.2002 and 11.4.2002 are irrevocable in nature, rather both are general power of attorney empowering the agents to do certain acts as intended by the principal in the said power of attorneys. It appears that the power of attorney dated 11.4.2002 was executed in favour of the mother of Respondent no. 3 subsequently i.e. after the date of execution of the power of attorney in favour of the wife on 8.2.2002. It is evident that the power of attorney granted in favour of the mother of the deceased bears the signature of the wife of the respondent no. 3 and it naturally follows therefrom that the power of attorney originally executed in favour of the wife was revoked by necessary implication of law as a fresh power of attorney was executed in favour of the mother of the respondent no. 3. Therefore the power of attorney dated 8.2.2002 on the basis of which the wife of the respondent intends to contest the appeal on behalf of the respondent no. 3 has got no legal force and accordingly the wife of the respondent no. 3 cannot be permitted to contest the appeal for the respondent no. 3 in this case.

As a result the applications filed by the wife of respondent No. 3, Smt. Sharmila Das as attorney of respondent No. 3 stands rejected.

In view of such position I find that it is not necessary to go for further discussion as to whether the order of ex parte hearing shall be vacated or not unless proper application comes from the side of respondent no. 3.

Fix 18.5.2015 for hearing and order.

[Signature]
Addl. District Judge
3rd Court, Barasat.

Additional District Judge
3rd Court, Barasat
North 24 Parganas.

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T.A. No. 36 of 2012

133/18.5.15

Appellant-files hazira.

Respondent No. 3, Amit Kr. Das has filed a petition along with show-cause praying for vacating the order of exparte hearing against him.

Copy supplied to the appellant.

Fix 16.7.2015 for hearing of the petition filed today by Respondent No. 3.

Objection in the meantime.

Addl. District Judge,
3rd Court, Barasat.
Additional District Judge
3rd Court, Barasat
North 24 Parganas.

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