District North 24 Parganas.

In the court of 2nd 2nd ADJ at Barasat.

T.A - 36/12

Tarun kumar Das -

-vs-

Arati Dey & Ors.

Petition No - X 11773

Dated - 21-8-19

Assessment - 26-8-19

DISTRICT JUDGES' COPYING DEP. 24 PARGANAS

10 रु. Rs.10 COURT FEE भारत INDIA दस रुपये TEN RUPEES

10 रु. Rs.10 COURT FEE भारत INDIA दस रुपये TEN RUPEES

10 रु. Rs.10 COURT FEE भारत INDIA दस रुपये TEN RUPEES

10 रु. Rs.10 COURT FEE भारत INDIA दस रुपये TEN RUPEES

26 AUG 2019

5 रु. Rs.5 भारत INDIA पाँच रुपये FIVE RUPEES

2 6 AUG 2019

E-101

Checked by

DISTRICT JUDGE'S COPYING DEP.
26 AUG 2019
BARASAT, NORTH 24 PARGANAS

DISTRICT JUDGE'S COPYING DEP.
Barasat, North 24 Parganas

Date of application for copy 21-8-19
1. Date fixed for notifying the requisite stamp 26-8-19
2. Date of delivery of the requisite stamp 26-8-19
3. Date on which the copy was ready for delivery 26-8-19
4. Date of delivery of the copy to the applicant 26-8-19
5. Cost of copy Rs. 45/-
6. Number of the Xerox sheets 17 14+15 Sheets

3rd Add J

908

DISTRICT: NORTH 24 PARGANAS

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.

Checked by

2 [illegible] 2019

DISTRICT JUDGE [illegible] DEP.
Barasat, North 24 Parganas

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

Checked by

2 AUG 2019

DISTRICT JUDGE'S COURTING DEP.
Barasat, North 24 Parganas

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.

Checked by

2 JAN 2019

Barasat, North 24 Parganas

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

Checked by

2 [illegible] 2019

DISTRICT JUDGE'S COURTING DEP.
Barasat, North 24 Parganas

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

Checked by

2 AUG 2019

DISTRICT JUDGES ... DEP.
Barasat, North 24 Parganas

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.

2 AUG 2019

Barasat, North 24 Parganas

AFFIDAVIT

BEFORE THE NOTARY PUBLIC
BARASAT, 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.

Deponent

Prepared in my office
Advocate

Identified by me
Advocate

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

Checked by

2 JAN 2019

Barasat, North 24 Parganas

DISTRICT: NORTH 24 PARGANAS

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 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.

2 JAN 2019

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

Checked by

2 JAN 2019

DISTRICT JUDGE & ADDITIONAL DEPT.
Barasat, North 24 Parganas

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.

2 AUG 2019

DISTRICT JUDGE FOOD PRINCE DEPT.
Barasat, North 24 Parganas

Filed By

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

Checked by

2 AUG 2019

DISTRICT JUDGE SUBORDINATE DEPT.
Barasat, North 24 Parganas

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 Rabindrra Kumar Chopra & Sri Birendra Kumar Chopra allegedly registered before the A.D.S.R. Bidhannagar (Salt

Checked by

2 AUG 2019

Barasat, North 24 Parganas

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

2 [illegible] 2019

DISTRICT JUDGE [illegible] DEP.
Barasat, North 24 Parganas

NO. 27631

28 AUG 2017

AFFIDAVIT

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 Kr. Das.

Deponent

Prepared in my office

Advocate

Identified by me

Advocate

Solemnly affirmed on 28/8/17
by the party being duly identified by
Advocate
This document contains
pages and is checked by
Notary Clerk

28/08/17
(Jebunnesa Alam)
Notary Public, Barasat
North 24 Pgs REGN No- 1/02

28 AUG 2017

Checked by

DISTRICT JUDGES' COPYING DEP.
26 AUG 2019
BARASAT, NORTH 24 PARGANAS

DISTRICT JUDGES COPYING DEP.
Barasat, North 24 Parganas

Compared and found to be true
copy and Certified Standard

Comparing Clerk
District Judges Court
North 24 Parganas, Barasat
26/8/19
J/C

Certified to be true copy
Indrani Bigfante
Head Comparing Clerk
District Judges Civil Coping Dept.
North 24 Parganas, Barasat
26/08/19