

District North 24 Parganas.

In the Court of 2d. Jrd. A.O. at Barasat.

T.A. 36/12

Tapan Kumar Das

- vs -

Amit Das & Ors.

Petition No. X11146 / Dated - 08/8/19

Assessment - 13/8/19

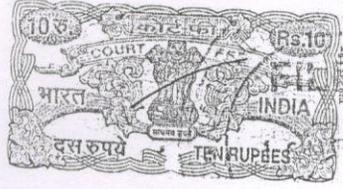


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Tarak Mukherjee
TARAK MUKHERJEE
Advocate

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DISTRICT : NORTH 24 PARGANAS

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

Ref : T.A. No. 36/2012

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

Tarun Kumar Das

... Appellant

- Versus -

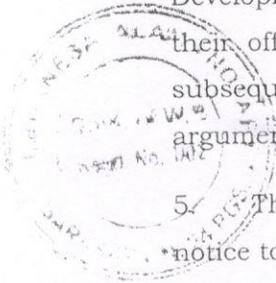
Sri Amit Das and others

... Respondents

WRITTEN OBJECTION ON BEHALF OF APPELLANT AGAINST THE PETITION
FILED BY THE RESPONDENT NOS. 4 AND 5 UNDER ORDER 39 RULES 4
READ WITH SECTION 151 OF C.P. CODE

Most Respectfully Sheweth :-

1. That the appellant/plaintiff appeal as well as injunction petition is not maintainable in its present form and in law.
2. That the appellant filed the original title suit being No. 205 of 2010 before the Ld. Court below for declaration and injunction with prayers made thereon in the plaint.
3. That in the present appeal Ld. District Judge, North 24 Pgs. was pleased to pass an ad interim order of injunction dated 05.06.2012 against the then respondent nos. 1 to 3 and this transferee court was subsequently pleased to extend the said ad interim order of injunction till disposal of the present appeal vide order dated 15.03.2014.
4. That the plaintiff/ appellant himself informed regarding the injunction order passed by the Ld. District Judge's court and by this Ld. Court to the Urban Development Department , Salt Lake City, Govt. of West Bengal in writing on 13.09.2010 and 22.03.2013 and said Urban Development Department call upon the plaintiff/ appellant on hearing at their office which was attended by the appellant on 14.09.2010 and subsequently on 27.09.2010 the appellant also appeared and advanced argument with brief notes of arguments.
5. That subsequently on 05.09.2013 the appellant also served legal notice to the Urban Development Department on 05.09.2013.





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Advocate

6. That in the meantime Amit Kumar Das and Smt. Anjana Chanda both son and daughter of Arati Das gifted their share over the suit property by way of two separate registered deed of gift being nos. 3597 and 3596 both of 2010 being registered before D.S.R.-II which has been came to the knowledge of this appellant/ plaintiff on 01.08.2017 after getting certified copy of those deeds after having information in the last part of July, 2017.
7. That said transfers by Amit Kumar Das and Anjana Chanda were during the litigation of the instant proceedings but neither of the parties have informed this appellant or to this Ld. Court about said transfers in the meantime
8. That when Arati Das went to mutate her name before the Urban Development Department in respect of the suit property the Urban Development Department stated to her that the mutation is dependent upon the result of the title suit no. 205/2010.
9. That this plaintiff/ appellant also got information that during pendency of this proceedings 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 details of which mentioned below by way of a registered Deed of Transfer of Lease/ Deed of Assignment being no. 01096 registered before ADSRO, Bidhannagar, North 24 Pgs. for the year 2013 in which Governor of West Bengal also made party.
10. That all those transfers are illegal, arbitrary and not binding upon the plaintiff and accordingly the following persons as well as Departments are the necessary parties to be added as defendants/ respondents in the original suit as well as in the instant appeal for proper adjudication of the instant suit in





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North 24

Arati Das

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Advocate

these changed circumstances otherwise your plaintiff/ appellants will suffer irreparable loss and injury which cannot be compensated by money value.

- 11. That in the meantime said Anjana Chanda, the daughter of Arati Das, the deceased defendant/ respondent has filed a petition supporting the appellant/ plaintiff.
- 12. That the added respondent nos. 4 and 5 all on a sudden filed the petition now under objection which is most illegal, baseless and under misconception of law as the original defendants/ respondents never made such petition and now the present added respondent nos. 4 and 5 came into the picture by way of illegal transfer of the suit property while the order of injunction was still in force and well within the knowledge of the respondents.
- 13. That the present added respondent nos. 4 and 5 have no leg of their own to stand in the subject matter of the instant suit/appeal though they have to stand on the legs of the original respondent nos. 1 to 3 and it is to mention here that the appellant in the meantime filed Misc. Case u/o 39 rule 2a read with Sec. 151 C.P.C. being no. Misc. Case 125/18 in this regard on 15.05.2018 which is also pending for disposal.
- 14. That in the petition filed by the added respondent nos. 4 and 5 under Order 39 Rule 4 read with section 151 of C.P. Code, they have admitted the entire facts regarding injunction order passed in the instant appeal and accordingly the petition now under objection is not at all maintainable and liable to be rejected with exemplary cost.

Hence, it is prayed that Your Honour would graciously be pleased to reject the petition filed by the added respondent nos. 4 and 5 under Order 39 Rule 4 read with section 151 of C.P. Code with exemplary cost.







BEFORE THE NOTARY PUBLIC
BARASAT, NORTH 24 PARGANAS

P.S. NO. 9350

Date 16 MAR 2019

AFFIDAVIT

I, Tarun Kumar Das, S/o. Late Santi Ranjan Das, aged about 63 years, by faith : Hindu, by occupation : Business and residing at EE/13/8, Salt Lake City, Sector-II, District : North 24 Parganas, Kolkata- 700 091, P.S. Bidhannagar (East), 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 paras 1 to 14 of this written objection are true to my knowledge and the rest are my respectful submission before this Ld. Court.

Tarun Kumar Das

Signature of the deponent,

Identified by me :

Saral Mukherjee

Advocate

Solemnly affirmed on 16/3/19
by the party being duly identified by
Advocate *T. Mukherjee*
This document contains *four*
pages and is checked by

[Signature]
Notary Clerk

Dee 16 19
(Jebunnesa Alam)
Notary Public, Barasat
North 24 Pgs., REGN No. 102

17 03 2019

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Subscribed and found to be true
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Sina Saha 13/08/19
Deputising Clerk
District Judges Court
North 24 Parganas, Barasat

Subscribed and found to be true
copy and correctly stamped
S. Pravin Biswas
Deputising Clerk
District Judges Civil Coping Dept.
North 24 Parganas, Barasat
13/08/19