District North 24 Parganas

In the Court of Ld. 2nd A.D.J Barasat.

T.A. 36/2012

Abhinandan Chopra.

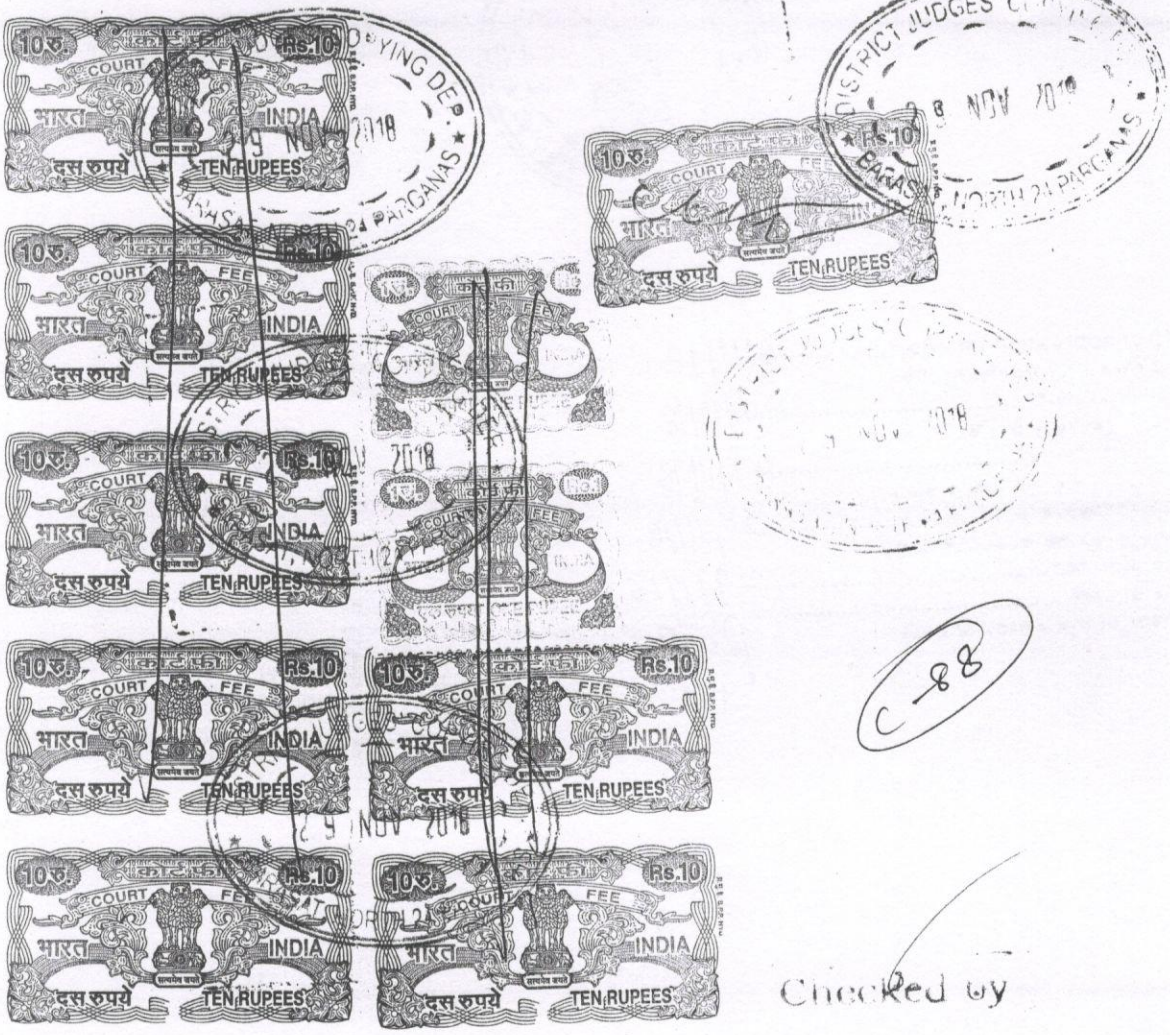
-Vs-

D.L.F

Petition No - 14415

Dat - 26/11/18

Assess - 27/11/18



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Date of application for copy 26/11/18
1. Date fixed for notifying the requisite stamp 27/11/18
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3. Date on which the copy was ready 29/11/18
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T.A. No. 36 of 2012

Present : Sri N.K. Ghosal

Order No.1

Dtd. 5.6.2012 This is an appeal filed by the appellant against the Judgment passed on 24.04.2012 by Ld. 2nd Court of Civil Judge (Senior Division) at Barasat in T.S. No.205 of 2010.

Court fees paid is correct. Appeal filed within time. Let the T.A. be admitted.

Register the case as Title Appeal.

From the official note it appears that no caveat is pending.

Issue notice upon the respondents by both ways.

To 17.7.2012 for S.R.A.D.

The appellant whose prayer was discarded by the Ld. Lower court has preferred this appeal challenging the legitimacy of the order. In the grounds of appeal it is pleaded that the order passed by Ld. Civil Judge (Senior Division) 2nd Court at Barasat was made from a wrong perception.

An application under Order 39 Rules 1 & 2 read with Section 151 of C.P.C. is filed praying for an order of temporary injunction so that the respondents do not transfer the respective share in the suit property to any third party.

Heard. Perused the Judgment of the Ld. Lower court dated 24.4.2012 wherefrom it is clear that despite service of notice upon the defendants they did not appear to contest the case and that is why the suit was heard ex-parte but virtually it was dismissed. Upon analysis of the situation there cannot be any least doubt that if the prayer for ad-interim injunction is discarded the sole object of appeal will be completely frustrated. Moreso, if an ex-parte order in terms of the prayer of the appellant is granted no substantial harm will be caused to the respondents. So in the circumstances, I think that ad-interim order can be granted restraining the respondents from transferring their respective shares in the suit property to any third party.

Hence it is,

Ordered,

That the prayer of the appellant for ad-interim injunction is allowed.

The respondents are hereby restrained by an order of ad-interim injunction from transferring their respective shares in the suit property to any third party. The interim order will remain in force till the next date.

The appellant to comply the provision as laid down under Order 39 Rule 3(a) & (b) C.P.C. as per law.

Issue notice calling upon the respondents asking them to show cause within 10 days from the date of receipt thereof as to why the appellant's prayer for temporary injunction shall not be granted.

Requisites by both ways at once. Appellant to file postal receipt by the date fixed.

To-date, i.e., 17.7.2012 for S.R.A.D.

District Judge, North 24 Pgs.

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Order No 2
7/6/12

The appellant files an Affidavit along with PRs showing the Compliance of the earlier order. Let it be kept with the C/R.

The appellant also files two separate petitions along with requisites and process fees praying for issuance of the summons urgently and Acceptance of the same on the ground stated therein — the prayers are Considered and allowed. Issue the same as prayed for.

To date i.e. 17.7.12.

Order No: 3
17/07/12

The appellant files herein. A/D Cards upon the respondents No-1 and 2 have been returned having been duly signed by the respondents and the Services of Summons are Satisfactory. The respondent No-1 appears by filing Vakalatnama through Ld. Adv and files I/A No 39 rule 1 & 2 r/w the section 151 of CPC supported by an affidavit and the copy is served upon the appellant and let the same be kept with the C/R. The Appellant files a petition supported by an affidavit Praying for extension of the order of ad-interim injuction as passed by the Ld. Court previously. The interim Stay upon the judgement and decree in T.S No-205 of 2010 is hereby extended till the next date. No A/D Card for respondent No-3. fix 18/08/2012 for A/D card for respondent No-3, S/R. I/A and I/O if any by other respondent.

D/Clerk

D.J.

D.J.

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Barasat, North 24 Parganas

T.A – 36/12

04
18/08/12

The appellant and the respondent-wife hearing through their respective Advocates -
The appellant also files a petition supported by an affidavit praying for extension of the order of ad-interim injunction as passed by the Ld. Court previously -
The respondents No-1 and 2 do not appear -
The interim stay upon the judgement and decree in T.S No-205 of 2010 is hereby extended till the next date.
No Aft Card for the respondent No-3 -
Let the instant T.A. be transferred to the Court of Ld ADJ 3rd Court at Barasat for disposal fixing 18/09/12 for Aft before the Ld. transferee Court with a request to call for LCR from the Court below from this end and also with a direction to the Appellant to take fresh step upon the Respondent No-3 before the Ld. transferee Court -
D/c by

D.J.

D.J.

5
23.8.12

Received the record from Dist. Court
Lyt returned for disposal.
Register.
To Aft for Appearance

Additional District Judge
3rd Court Barasat

6.
18/9/12

Both Sides files their
Respective Appellant File etc.
Supported by an affidavit praying
for extension of interim Stay upon the Judgement
and decree on ground stated therein. L.C.R. not
received. Copy Sent to Advocate and on call respondent
is not available. It is now 3.30 P.M.
Hd. The prayer for interim Stay upon the Judgement
and decree in T.S. 205/10 is hereby extended till the
next date.
To 13/12/12 for appearance of L.C.R.

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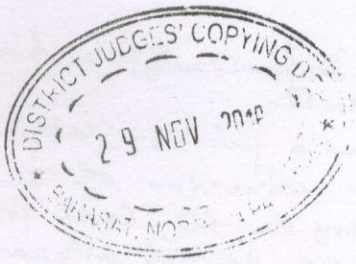
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T.A 136/12

7.
13-12-12 Both the parties present. Applicant files a petition praying for extension of interim stay order dated 10.12.12 passed in T.S. 205/10 and also for vacation of interim stay order dated 10.12.12 passed in T.S. 205/10. Copy of the petition is handed over to the learned counsel for the respondents. Let the petition be listed on 25.2.13 before the Court.

TO 25/2/13 for order L.C.R.

8.
25/2/13 Appellant is present in person. Petition praying for extension of interim order dated 10.12.12 passed in T.S. 205/10 is on file. Copy of the petition is handed over to the learned counsel for the respondents. Let the petition be listed on 1.4.13 before the Court.

TO 01-04-13 for order L.C.R.

09
01.04.2013 Appellant files vakalatnama and a petition for extension of the interim order. Respondent No.1 also files vakalatnama. It appears that AD cards returned from Arati Das and Arjana Chandra are lying with the records. The said Arati Das and Arjana Chandra happens to be the Respondent Nos. 1 and 2 in this present case. Accordingly the service in respect of Respondent Nos. 1 and 2 is complete.

Appellant is directed to cause fresh service upon the Respondent No. 3 by speed post with A/D.

The interim order is extended till the next date. TO 02.05.2013 for appearance, L.C.R. and order by the Respondent No.1. Issue reminder immediately for L.C.R.

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29 NOV 2019


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T.A - 36/12

10. 2/5/13

Applicant files a Vakalatnama.

Respondent Arati on file Vakalatnama
Ld. Advocate on behalf of the ~~applicant~~ respondent
files reply of formal nature with
prayer to direct respondent no. 3
finish regarding interim reliefs from
postal department & let it keep with the
record.

Applicant is also file a Petn. Supported
by an affidavit praying for extension of the
interim Order, perm. Contd.

The interim order is extended till the
next date. To 03/06/13 for appln. and reply by
and reply on behalf respondent no. 3. Issue order to L.C.R.

PKP

11. 03/06/13

Applicant as well as Respondents
are also file Vakalatnama.

Applicant is also file a Petn. Supported
by an affidavit praying for extension of the
interim order. Perm. Cont. pending in district
Judges Court.

The interim order is extended till the
next date. To 30-07-13 for appln and reply by
as stay upon Respondent no. 3. Petn is directed to expedite
the Issue regarding P.C.R.

Call to dt
No. 293
dt. 15.6.13

12. 12/6/13.

Applicant files a Petn
Petn with a Petn. Supported by an
affidavit u/s 0.5 rule 20 read with
Sec. 151 C.P.C. Copy served
is rec'd. Let it be kept with the record.
Petn ~~for recalling of~~ filed. when
need.

PKP


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29 NOV 20
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T.A. 36/12

13.
28/6/13

[illegible] petition dated 12/6/13 is certified for orders.
The petn. is moved.
Hel. Considered the Submissions made by the Ld. Advocate for the petitioner Cannot be Answered in the ordinary way.
In view of this, the applicant is directed to Cause service of notice of the impugned by an advertisement in a daily newspaper circulating in the locality, in which the respondent is last known to have actually and voluntarily resided, Carried business, or personally worked for gain. Fix 30/8/13 for steps. by the petitioner an affidavit of draft Copy of Circulation or advertisement in newspaper
Declared by hand.
[illegible]

14.
30/07/13.

Applicant is present and filed drafts & Copies in duplicate. Let it be approved and handed over to the petitioner on proper receipt of Publication.
Fix 30-08-13 for filing news paper.
Applicant as well as Respondents legal
-Nazira.
Applicant is also filed a petition.
Supported by an affidavit praying for extension of the interim order. Perused. Cause
The interim order is extended
till the next date fixed (30/08/13)
[illegible]

15.
30/08/13

Applicant file Nazira.
Respondent Amrit Doley file Nazira.
Applicant is a local file newspaper cutting Supported by Fidelity & Let it be kept with the record.
Applicant is also file a petition -
Supported by an affidavit praying for extension of the interim order. Perused. Cause
till the next date fixed
The interim order is extended
To 30/09/13 for further order.
[illegible]


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29 NOV


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Barasat, North 24 Parganas

T.A 36/12 — 3rd ADJ — 150

Respondent no.1. has not filed written.
Respondent no.2 does not take any steps.
Respondent 3 did not appear before this court. Even sufficient time has been elapsed after publication of leading newspaper.
Applicant files a petition with a prayer for extension of interim order with the. Prayer is allowed.
The interim order is extended till 07-11-13 due to long pending record. L.C.R. not yet been received as yet.
To 07/11/13 for hearing of injunction application and for arrival of the L.C.R.

16.
30-09-13

17
07.11.2013

Respondent No.1 files vakalatnama. Appellant files petition for extension of the interim order.
None appears on behalf of the Respondents in repeated calls. Ld. Advocate for the appellant is present.
Heard. Today is the date fixed for hearing of the injunction application and for arrival of the L.C.R.
Due to non-appearance on behalf of the respondents at the time of call, the injunction application cannot be heard today.
Fix 07.12.2013 for hearing of the injunction application and for arrival of L.C.R.

ADJ, 3rd Court
Barasat.

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 W.O. till now, and the other respondents are also not appearing.
There is no reason to fix any early date for hearing of the injunction petition. Fix 15.03.2014 for hearing of injunction petition and L.C.R. Interim order is extended till 15.03.2014.
Petition for extension is thus disposed of.

ADJ, 3rd Court

H for L.C.R
10.1.14
& 7.3.14


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Barasat, North 24 Parganas

19
15.03.2014

Both sides file hazira. It appears that mutation as per petition dated 06.02.14 which was filed on that date but not uploaded today along with the records.

Amar C.

19
15.03.2014

Both sides file hazira. It appears that on 06.02.14 a petition was filed by the appellant but the same is not up today along with the records.

It appears from the said petition particularly from the xerox copy of the death certificate annexed herewith, that the respondent no. 1 Smt. Arati Das died on 21.01.2014. However, today the hazira 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 hazira was filed on behalf of the said respondent However the prayers made in the said petition is not opposed.

Compd.


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29 NOV 2012


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Heard both sides. Considered.

It appears that the appeal was fixed for exparte 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 the make necessary correction in the cause title of the memo of appeal.

The appellant also files a petition for expunction 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 I do find no reason for disallowing the ~~prayer~~ submission of the Ld. Advocate for the appellant.

Accordingly the petition u/o 39 R 1 & 2 read with section 151 C.P.C. is allowed exparte. The interim order ~~date~~ passed on 05.06.2012 is extended till disposal of the present appeal

Fix 31.05.2014 for exparte hearing of the appeal & Make reminder for L.C.R. immediately.

ADJ, 3rd Court
Barpeta

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29 NOV 2019
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20
21.3.14 Recived the LCR from Civil Judge Sr Divi 2nd Court - Banasa in T.S.No. 205/10. c/w TA 36/12.
To dt for hearing orders.

Additional District Judge
Fast Track Court, Borrowal
North 24 Parganas

24
31.03.14 A.O. is hereby in District Judge file ~~is~~ ~~taken by~~ LCR ~~Records~~ received on 21/3/14. ~~Case is adjourned by~~.

TA. 36/12

21
31-5-14 Appellant files a time pfm.
Hd. Considered and the time is allowed
to. 17.7.14 for Hearing.
One Lasica of Respdt. be kept
with record.

/ / Sd/
ADJ 3rd

22
17.7.14 Appellant files Lasica.
Respdt no 2 appeared by filing vakalatnama.
Respdt nos files Memo and Hearing pfm.
Another pfm filed by appt be kept with record.
Hd. both Parties. Considered
Let the Memo be accepted and Hearing
be vacated.
Fix 01-8-14 for Hearing Appeal.

Sd/
ADJ 3rd

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29 NOV 2018


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Barasat, North 24 Parganas

3rd ADJ

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95-

TA. 36/12

23
1-8-14

Appellant & opp.2 files Vakalats.
The case is taken up for hearing.
Hd. both sides in part.
no time today.
So, the case is adjd.
to. 01-9-14 for A. Hearing

ADJ-3rd

24
1.9.14

Appellant has received. Verified
Respondent No. 3 has shown cause
Pvt.
copy served.
Let it be kept with the record.
To 17.9.14 for further hearing.

ADJ-3rd

25
17/09/14

Appellant files a petition praying
for time on the ground stated therein.
The prayer is considered and allowed.
The case is adjourned today.
Fix - 31/10/14 for further hearing.

By
ADJ. 3rd.
Barasat.

26
31.10.14

Respondent No. 3 files
written objection.
copy served.
Appt has a Pvt ready for hearing
on the name stated Pvt.

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29 NOV 2018


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Barasat, North 24 Parganas

Contd Respdt is absent.
To 15.11.14 for further reports
as last chance.

ADJ

27
15.11.14 Both Parties are present.
Record is taken up for hrg.
Ld. Counsel is in Court.
To 6.12.14 for further hearing.

ADJ

28
6/12/14. Both Parties are present.
Record is taken up for hearing
of the petition filed by the
Respondent No 3 praying for
Salary ex-parte.
The Respondent No 3 files a
petition praying for time to
file affidavit-in-reply on the
grounds stated therein. Same
is allowed. Prayer for time is
allowed. To 31/01/2015 for hearing of Petn
Affidavit-in-reply etc the matter.

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29 NOV 2019


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TA 36/12

29
30.1.15 Both parties absent.
Today is fixed for hrg.
As per resolution of Delhi Bar Association
no adverse order shall be passed.
To 23.3.15 for hrg at Allr

AM(J)

30
23.3.15 Both parties absent.
written objection filed by the applicant
supported by an affidavit.
Ld. Both sides.
To 9.4.15 for order.

AM(J)

31
9.4.15 Both parties absent.
Today is fixed for order.
Order could not be passed as P.O.
is busy with an urgent matter.
To 17.4.15 for order.

AM(J)

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29 NOV 2019


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T.A. 36 of 2012

32/17.4.2015

The record is taken up for pssing order in connection with the show cause application coupled with another application praying for vacating the order of ex parte hearing fixed agaisnt 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 latches 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 veracilty 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 exparte hearing against him. Before going into the question as to whether the order of exparte hearing shall be vacated and the appellant

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29 NOV 2018
BARASAT, NORTH 24


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Barasat, North 24 Parganas

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 bewteen 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 necessarry to go for further discussion as to whether the order of exparte 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.

Addl. District Judge
3rd Court, Barasat.

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

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3rd Addl

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x 10814
07.1.2015

T.A. No. 36 of 2012

33/18.5.15

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.

34
15.7.15

Both parties file hazira.
Respondent no. 3 files written objection.
Copy served. Ld Adv for the
Respondent files a petition praying for
time to file w.o. on the ground
stated therein.
Considered. Prayer is allowed.
To 3.8.15 for for the Petn/Written-objection in the meantime.

Adv.

35
03/08/15

Both parties file hazira. Appellant files written objection against the application submitted on behalf of the respondent no. 3 for vacating the order for exparte hearing of appeal. Copy served and objected to. Appellant files another petition praying for time on the ground stated therein. Prayer is considered and allowed as a last chance. No further adjournment will be granted.
Fix - 21/08/15 for hearing of Pth.

ADJ, 3rd.

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TA 36/12

36
21.8.15 Appt Md Razia. A Rule u/s 340 read with 195 CrPC
Respondent Md Razia.
Copy served.
TC 21.11.15 for hrg all the Pet/ O.O. in the meantime.

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

36
21.11.15 Both parties Md Razia.
P.O. is in charge of Ld Addl Govt.
Today is fixed for hrg.
Case is adj
TC 18.1.16 for hrg all the Pet/O.O. in the meantime.

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BARASAT, NORTH


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3rd Addl

IA 6
of 2019
DS. V. Smt.

Title Appeal No. 36 of 2012

Order No.37
dated 29.01.2016

The record is taken up for passing Order upon the application filed by respondent No.3/Amit Kumar Das, praying for vacating the ex parte order of hearing of the Appeal along with a separate application filed by the Appellant under Section 340 read with Section 195 of Cr.P.C.

Perused the contents of the application under Section 340 filed by the Appellant and the Written Objection submitted thereto.

Heard the Ld Counsel appearing on behalf of the respective sides.

It is the contention of the Ld Advocate appearing for the Appellant that Opposite Party No.1 & 2 have made false statements on oath and also filed manufactured document being the Power of Attorney dated 08.02.2002 and accordingly, they are liable to be prosecuted under Sections 177, 182, 187, 191, 192, 196, 199 and 209 of Indian Penal Code. The Ld Counsel submitted that in view of such position, prosecution should be launched in terms of Section 340 of the Criminal Procedure Code. The Ld Counsel pointed out grounds specifically mentioned in Para-11 of the application filed by the Appellant, which according to him, are sufficient for initiation of such proceeding against the OP No.1 & 2.

The OP/respondent/Amit Das contested the application by filing Written Objection denying all the material allegations made against him stating, inter alia, that no false statement has been made by the respondent on oath before this Court which would attract Criminal Prosecution against him in terms of Section 340 read with Section 195 of the Cr.P.C.

I have carefully gone through the specific allegations made against the respondent as mentioned in Para-11 of the application u/s. 340 Cr.P.C and also considered the provisions u/s. 340 Cr.P.C. I find there is no materials before this Court to take even a prima facie view that respondent No.3 has made any such false statement before this Court or filed any false or fabricated document which would attract Section 340 Cr. P.C. Accordingly, I am of the considered opinion that the application u/s 340 Cr.P.C has got no merit and hence rejected.

On perusal of the application filed by the respondent No.3, praying for vacating the Order of ex parte along with the cause shown, I find that he intends to contest the Appeal. The Appellant has also made him a party in this Appeal. The cause shown appears to be convincing. I am of the view that justice requires that the instant Appeal should be heard on merit, especially when, specific relief has been claimed against respondent No.3 and he himself has come before this Court to contest after rejection of the application filed by his Attorney to contest in this Appeal ~~to contest~~ by Order dated 17.04.15.

In the light of the aforesaid discussion, the show cause filed by the respondent No.3 is accepted and the prayer for vacating the order for ex parte hearing stands allowed.

Accordingly, the Order for ex parte hearing stands recalled, fixing 10.03.2016 for haring of the Appeal.

Addl. District Judge,
3rd Court, Barasat.

Checked by


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29 NOV


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Barasat, North 24 Parganas

TA 36/12

38
10.3.16 Respondent no. 3 files vakalat.
Appellt files a pvt application for time on the reasons stated therein.
Considered. Prayer is allowed.
To 4.6.16 for hearing of appeal.

39
4.6.16 Ld. Adv for the parties absent their adjournment due to strike called by local Bar.
To 7.9.16 for hearing of appeal.

40
7.9.16 Respondent no 3 files vakalat.
Appellt files a pvt application for time on the reasons stated therein.
Considered. Prayer is allowed.
To 17.12.16 for hearing of appeal.

41
17.12.16 Respondent no. 3 files vakalat.
Appellt files a pvt application for time on the reasons stated therein.
Considered. Prayer is allowed.
To 7.2.17 for hearing of appeal.

42
7/2/17 Appellant seeks adjournment.
Request at the bar is allowed.
Hence. Prayer is allowed.
Post 16.2.17 for hearing of appeal.

Judge

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Barasat, North 24 Parganas

TA 36/12

2
[illegible] 2.17
(7/2/17)

Respdt files vakalat
Appellant files a petn for adjournment
None present for appellant
Petn for adjd.
Ld. Advocate for respdt is present
Perused petition of appellant and heard
Post 16.2.17 for hearing of appeal

Judge

43
16.02.17

Respondent files vakalat. No step taken by the Appellant.

Ld Advocate for the respondent is present. None appears on behalf of the appellant on repeated calls.

The appellant is directed to file Show Cause by the next date positively as to why the appeal shall not be dismissed.

To 16.03.17 for Show Cause and further Order.

Dict & Corrected by me,

3rd Addl. District Judge.

3rd Addl. District Judge.

44
16.3.17

Respdt files vakalat. Appellant files a petition for showing cause as directed. Cause shown is accepted. Ld. Advs for both sides are present. Case is taken up for hearing of appeal. Ld. Advs for both sides is part heard. Post 01.4.17 for further hearing of appeal.

Judge

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Barasat, North 24 Parganas

TA. 36/12

45
1.4.17 Both parties file Separate Vakalatnama
Case is taken up for further hearing
Ld. Both sides in part
Fix 18.4.17 for further hearing of appeal

Judge

46
18/4/17 Today is Fixed for Further hearing of the appeal.
Appellant files hazira through their
Ld. Advocate.
Respondent No. 3 also files hazira through
their Ld. Advocate.
P.O. is engaged for written Judgement of another
Cases. So, the case is adj today.

Fix, 20/5/17 For hearing of the appeal/Arguments.

Judge

47
20/5/17 Appealant files hazira through Ld. Advocate
Respondent No-3 also files hazira through Ld. Adv.
P.O. is engaged for written ~~Complainant~~ Judgement of another Cases.
So, the case is adj. today.

To, 17/6/17 For hearing of the appeal.

48
19/6/17 Both parties file Vakalatnama. DDO is ~~not~~ present
P.P. in charge is busy with his own Bill
Case is adjd

Fix 15/7/17 for hearing of appeal

Judge I/c

Checked by


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29 NOV 2019


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Barasat, North 24 Parganas

T. A. 36/12 (119/14)

Order no 49
15.7.17 Both parties file hazira.
Ld. Ld. Adv. for the appellant in part.
On submission on behalf of appellant case is adjourned.
Fix 5.8.17 for further hearing.

50
5/8/17 Both parties file hazira
Dr is on leave.
Fix 28/8/17 for further hearing

51
28/8/17 Hazira of the parties. Appellant files
Tribunal for objection
Appellant files Miscellaneous WP 1210 of
amendment WP 617 of 17 and MA No 151
of 17 for amendment of objection petition
Copies served
Fix 8/11/17 for further hearing when WP
WP if any is not entertained

A/c by
Ram

Checked by


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29 NOV 2019
BARASAT, NORTH 24 PA


STRICT JUDGE'S COPYING DEP
Barasat, North 24 Parganas

T-4 36/12 (IE, 4

C2
8/11/17

Repeat 2, 3 ~~time~~ hours
Petitioner file a petition for appointment
HG. Serve Lodge

Rex 27/11/17 for ~~hearing~~

Advocate
Petitioner

Judge

C3
27/11/17

Appellant present
Respdt 3 ~~has~~ file a petition for adjournment
Copy serve 4. No objection is raised.

Rex 16/1/18 for Reply.

Advocate
Petitioner

Judge

C4
16/1/18.

~~Appellant~~ Petitioner file a petition for adjournment
Copy serve 4. Respdt-3 ~~has~~ not filed counter reply
Objection Copy serve 4.
(13/3/18.
Rex 13/3/18 for hearing.

Advocate
Petitioner

Judge

C5
3/3/18

Petitioner is on leave ~~Applicant~~ ~~is~~ ~~on~~ ~~leave~~ ~~due~~ to medication
of Local Body

Rex 4/6/18 for Reply

Judge

Checked by


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29 NOV


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Barasat, North 24 Parganas

3rd Addl

1006
₹12843
05-2.5.18

In the Court of the Ld. Additional District Judge, 3rd Court
Barasat, North 24-Parganas

Misc Case No. 125 of 2018

Present : Smt. S. Nandy Chakrabarti

Order No : - **56**
dt. - **10.05.2018**

This is an application u/o 39 rule 2A r/w section 151 of the C.P.C. with fresh Vokalatnama filed by the petitioner supported by an affidavit praying for attachment of the property with civil imprisonment against the O.P. / respondent no. 2 due to ~~alleged~~ violation or disobeying the injunction Order passed by the Ld. District Judge, North 24-Parganas in c/w **Title Appeal No. 36 of 2012** , dt. - 05.06.2012 on the ground stated therein.

Notice issued on - 15.05.18 (both ways)

Registered the application as Misc. Case.

Requisites put in.

P. fee is paid.

Issue summons upon the opposite party through both ways accordingly.

To, 04.06.18 for SR / AD / Appearence.

Addl. District Judge
3rd Court at Barasat
North 24-Parganas

57
4/6/18.

O.P. is not served both ways
P/R. not SR/AD is returned
Fix 16/8/18 for SR/AD appn.

Judge's

T.A 36/12 (119/14)

58
4/6/18

O.P. is not served. Petitioner
one fresh is filed. for Order 39 R-2A
and Respondent R Chapter 4/0 22 R-10. Ap
allegation on application. Copy issue
Fix 16/8/18. for the fresh 4.6.18. 4/0 of
any is the meantime

Judge's


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29 NOV 2012


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

T.A 35/12 (119/14)

59
15.8.18

Parties [illegible]

Heard [illegible] 18

and fix [illegible] 2.10 pm.

Fix 29/8/18 [illegible]

Judge

Reader 125/18

60
15.8.18

Heard [illegible]

Fix 14.1.19 for R/As.

Judge

61
~~[illegible]~~
29.8.18

T.A 35/12 (119/14)

Appellant, respdt-3 heard [illegible]

Fix 10.9.18. for clarification and order

Judge

marked by


DISTRICT JUDGE'S COPYING D
29 NOV 2018


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

Order No.62
dated 10.09.18

Today is fixed for passing Order.

Record is taken up for passing Order.

By filing a petition under Order 22 Rule 10 read with Section 151 of CPC, the petitioners have prayed for adding them as party defendants in the suit and also in the Title Appeal on the ground that they have purchased the suit property from the original defendant No.1 namely Arati Das, since deceased, as now represented by her legal heirs being defendant Nos.2 & 3 by a registered deed of transfer dated 05.04.2013. They have come to know about the suit in the month of 2018 and thereafter on enquiry they have gathered the particulars of the suit as well as the Title Appeal.

No written objection has been filed against the said petition.

Another application has been filed under Order 1 Rule 10 read with 151 of CPC filed by the Appellant with the same prayer of adding Birendra Kumar Chopra and Ravindra Kumar Chopta as Respondent in the present Appeal.

Respondent No.3 has filed written objection with a prayer for rejection of the application on the ground that nothing has taken place during the pendency of the suit and as such, they cannot be added as party respondents and if any transaction has been made by Arati Das during her life time in favour of the alleged two persons who were not party in the suit. They cannot be added as party in the instant Appeal. If they are added party then the respondent will be highly prejudiced and there will be change in the nature and character of the suit.

Perused the materials of the record and the applications and objections.

It appears that the instant Appeal has been preferred against the Judgment and Decree passed by the Ld Court below in Title Suit No.205 of 2010 on 24.04.2012. The suit property was transferred by Arati Das on 05.04.15 ie after passing of the Judgment. Until and unless the Judgment is set aside it subsists. Therefore, the transaction which had taken place is not illegal. As such, these two petitioners namely Ravindra Kumar Chopra and Birendra Kumar Chopra are necessary parties in the present Appeal which is the continuation of the suit.

Under the circumstances, both the petitions are allowed.

Ravindra Kumar Chopra and Birendra Kumar Chopra be added as respondent No.4 & 5 in the present Appeal. Amend the cause title to that effect and note in the register.

Appellant is directed to file fresh Memo of Appeal by the date fixed.

Fix 04.01.2019 for hearing the application under Order 6 Rule 17 of CPC and U/s. 151 of CPC for amendment of injunction application.

Dict.& corrected by me,

3rd Addl.District Judge

3rd Addl. District Judge
Barasat.

Checked by

Compared and found to be true copy and Correctly stamped

Sulina Saha 29/11/18

Comparing Clerk
District Judges Court
North 24 Parganas, Barasat

Certified to be true copy,

Indrani Bhattacharjee

Head Comparing Clerk
District Judges Civil Coping Dept.
North 24 Parganas, Barasat

29/11/18