



2

District North 24-Parganas,

In the Ld. 2nd. court of the Civil Judge (Sr. Divn) at Barasat.

T.S. NO. 205/2010.

Sri Tarun Kumar Das ... Plaintiff

-Versus-

Smt. Uma Das & Ors. ... Defendants.

Examination-in-chief on behalf of plaintiff

as P.W. 2 under order-18, Rule- 4 C.P.C.

I, Sri Tarun Kumar Das, son of Late Santi Ranjan Das, Proprietor of M/S. Artland, residing at EE/13/8, Salt Lake City, Sector-II, Kolkata-700 091, under Police Station Bidhannagar (East), District North 24-Parganas, having its office earlier at C D-295, Salt Lake City, Sector- I, Kolkata-700 064, and presently at C J-30, Salt Lake City, Sector-II, Kolkata--700 091, in the District of North 24-Parganas, by faith-Hindu, by occupation-business, aged about 56 years, do hereby solemnly affirm and state as follows :-

1) That I am the plaintiff of the instant suit and well conversant with the facts and circumstances of the same.

... This is true to my knowledge.

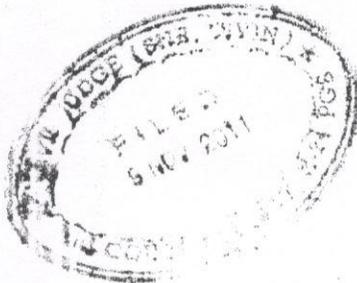
2) That I the plaintiff is engaged in the business of construction under the name and style M/S. Artland and the office earlier was at CD-295, Salt Lake City, Sector-I under Police Station Bidhannagar (North), Kolkata-64,

Tarun Kumar Das

Checked by

c..p/2.





(2)

District North 24-Parganas and the present office is at C J-30, Salt Lake City, Sector-II, Kolkata-700 091, District North 24-Parganas.

... This is true to my knowledge.

3) That Bishnupada Das, since deceased, and his wife Smt. Arati Das, the defendant NO. 1 jointly obtained a vacant plot of land measuring more or less 4.2395 Cottahs being plot NO.130, Block EC, Sector-I of the Northern Salt Lake City extension area in the District North 24-Parganas, previously District 24-Parganas on Lease under a registered Deed of Lease dated 20th August, 1970 from the Governor of West Bengal for 999 years registered at the office at Cossipore Dum Dum in Book NO. 1, volume NO.95, for the year 1970 for erecting a building on the said plot of leasehold land for residential purpose.

.. This is true to my knowledge & information.

4) That after taking possession of the said leasehold land the said Bishnupada Das applied to the Salt Lake Authority i.e. Bidhannagar Notified Area Authority now Bidhannagar Municipality for sanction of the building plan and constructed a partly one storied residential building on the said plot of leasehold land and started living there with his family as described in the schedule below hereinafter referred to as the suit property.

.. This is true to my knowledge.

Bishnupada Das



(3)

5) That the said Bishnupada Das, however, died intestate on 15th-July, 1990 leaving behind his wodon Smt. Arati Das, the defendant NO. 1., one married daughter Smt. Anjana Chanda, the defendant NO. 2 and a son Amit Kumar Das, the defendant NO. 3.

... This is true to my knowledge.

6) That after the demise of the said Bishnupada Das, the defendant NO. 1 wanted to make further construction upon the existing one storied residential building but she had no source of income and Banks and financial institutions also refused to sanction home loan .

... This is true to my knowledge.

7) That the defendant NO. 1 then contacted me for making construction of the other two floors on the roof of the existing building and upon negotiation I agreed to undertake the construction work and the defendant NO. 1 agreed to engage me to construct and to complete the said two floors on the existing partly constructed ground floor and to give the first floor and the second floor to me as tenant under the defendants. Accordingly an agreement by and between me and the defendants was arrived on 11th. April, 2002 which was notarised on 12th April, 2002 inter-alia on the following terms and conditions :-

- i) That I shall pay an amount of Rs . 13,60,000/- to the defendants as security deposit.
- ii) That the defendants shall obtain the necessary permission from the competent authority and



Jayaram Red Das

c..p/4.





(4)

accordingly a notarised Power of Attorney was made and executed by the defendants in my favour to carry out the construction work.

8) According to the said Agreement dated 11.04.2002 I have paid Rs. 9,26,000/- by cheque and cash on different dates which have been acknowledged by all the defendants more particularly the defendant NO. 1 Smt.Arati Das through money receipts..

... This is true to my knowledge.

9) That I started construction work for raising two more floors as per the earlier sanctioned plan in the front portion of the ground floor in the said building which was kept vacant by the defendant's husband. At that period the defendant NO. 1 inducted one Debabrata Gupta in a portion of the ground floor in that building without any intimation to me and consent of myself and I came to know about the said tenancy from a letter/ intimation addressed to the Chairman of the Bidhannagar Municipality vide letter dated 18.04.2007 written by the said Debabrata Gupta that he has taken a portion of the ground floor of the said suit property on tenancy basis.

Furthermore I at my own cost prepared a revised building plan for the purpose of obtaining sanction from the municipal authorities and forwarded it to the said defendants for obtaining their signatures but they refused to sign the same.

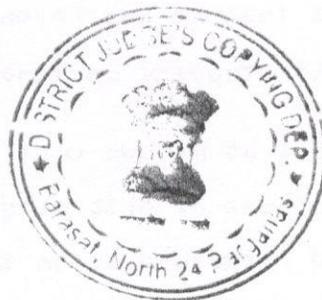
... This is true to my knowledge.

10) That Smt.Arati Das, the defendant NO. 1 thereafter left the said premises at EC-130, Salt Lake City, Sector-I, Kolkata-64,

Farheen Khatun

c..p/5.







(5)

in the District of North 24-Parganas and went to live at 23, Bade Ra Raipur Road under Post office Jadavpur, Kolkata-700 032, with her married daughter the defendant NO. 2 and the son being the defendant NO. 3 also left the said house who was subsequently declared involent by the Hon'ble High court in its original Civil jurisdiction in involency case NO. IC-2 of 2003.

... This is true to my knowledge.

11) That the defendant NO. 1, however, after taking so much amount of money created obstruction to the work by the plaintiff and also filed an application under section 144(2) Cr.P.C. being M.P. case No. 18 of 2003 before the Sub-Divisional Executive Magistrate at Salt Lake and an order was obtained from that Executive Magistrate and accordingly I stopped further work at the said suit property.

.. This is true to my knowledge.

12) The defendant No. 1 also filed an F.I.R. on 30.04.2003 against me before the Bidhannagar (North Police Station being Bidhannagar P.S. case NO. 67 dated 30.04.2003 was started which was registered as G.R Case NO. 2016 of 2005 in the court of the Ld.A.C.J.M. Bidhannagar and I appeared in the said criminal case and faced the trial and upon taking evidences the Ld. Assistant Chief Judicial Magistrate at Bidhannagar found me not guilty and accordingly I was acquitted by and under the judgement and order dated 06.06.2007 under Section 255(1) of the Criminal procedure Code.

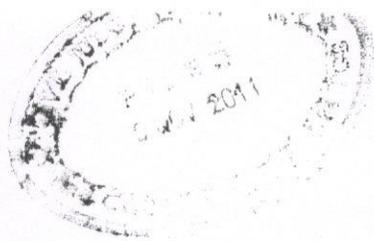
.. This is true to my knowledge.

c..p/6.

Janeen B. Das.







(6)

13) The defendant No. 1 further filed a T.S.being NO.103 of 2003 before this Ld.court against me inter-alia alleging that on 20.01.2003 I made attempts for forcible possession of the suit property and prayed for an injunction restraining me from disturbing peaceful possession of the plaintiff and from changing the nature and character of the said suit property and I appeared in the said Title suit as defendant and filed the written statement denying all the allegations made against me.

.. This is true to my knowledge.

14) That ultimately the plaintiff in the said Title suit i.e. the defendant No. 1 herein filed an application before this Ld. court stating that the matter and the dispute involved have been settled out of court by and between the said parties on the terms and conditions as envisaged in the compromise petition and thereafter prayed for dismissal of the said suit for non-prosecution and accordingly, the said title suit was dismissed for non-prosecution on 29.05.2007, I thereafter further paid a sum of Rs. 1,02,000/- on 30th. July, 2007 and the defendant Nos. 1 and 2 have acknowledged the receipt of the total amount of Rs.10,28,000/- till the date of execution of the Power of Attorney.

.. This is true to my knowledge.

15) That the defendant Nos. 1 and 2, according to the terms of the said compromise petition, executed a Power of Attorney dated 16th.April,2008 permitting the said



Fazam ka Das.

c..p/6 7.

Checked by



(7)

plaintiff as the constituted attorney to proceed with the work of construction/development of the said suit property without any interference objection / non co-operation from the said defendants. Subsequently the plaintiff also paid Rs. 25,000/- on 04.10.2008 to the defendant NO. 1 which has also been duly acknowledged by the defendant NO. 1 in the presence of witness being the defendant NO. 2. Thus the total amount of Rs.10,53,000/- has been paid by the plaintiff to the defendant Nos. 1 and 2 which has been duly acknowledged by the said defendant Nos. 1 and 2.

.. This is true to my knowledge.

16) That I also got the building plan prepared and sanctioned on 16.06.2008 for raising the first and the second floor of the said building on the said suit property and wanted to raise the construction as per the Agreement and the Power of attorney strictly in accordance with the said sanctioned building plan but the defendants again started creating obstruction to the said construction work at the said suit property and refused to offer any co-operation.

.. This is true to my knowledge.

17) After discussions and persuasion myself and the defendant No. 1 agreed that I will carry on the said construction work and the defendant NO. 1 also agreed that she will make a declaration that due to her old age it was not possible for her to represent everywhere before and during the said construction work and that I will represent the defendant No. 1 as the authorised agent and do the needful on her behalf according to the said General Power of Attorney dated 11.04.2002. According to that arrangement the defendant No. 1 agreed

Jayaram Reddy

c..p/8.

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(8)

to execute an Affidavit before the Notary Public reiterating the previous terms and conditions.

... This is true to my knowledge.

18) That according to the said arrangement I prepared the declaration and the affidavit on stamp papers purchased on 06.10.2009 and 09.12.2009 respectively but when I placed the said two documents before the defendant No. 1 for obtaining her signature, she backed out. Thereafter on several occasions I requested her to co-operate with me to complete the rest of the construction work as per the sanctioned plan but the defendant No. 1 refused to co-operate to the detriment of the interests of the plaintiff. The defendant No. 1 threatened that the said suit property would be transferred to a third party to make pecuniary gains.

... This is true to my knowledge.

19) That subsequently I came to know that the defendant Nos. 2 and 3 have approached the competent authority to accord permission to transfer their respective shares in the said suit property to their mother, the defendant No. 1 by a deed of gift without intimating me and obtaining my consent and therefore I wrote a letter to the said Competent authority on 23.08.2010 stating the entire facts regarding the said suit property and requesting them not to accord the permission as prayed for by the defendants. The said competent authority by and under a letter dated 09th. September, 2010 asked me to appear at their office on 14.09.2010, the plaintiff went to the said office of the competent authority

Ganesh Kumar

c..p/9.

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(9)

and in course of the hearing was told that I should approach the competent civil court for obtaining an appropriate order. If the defendant Nos. 2 and 3 succeed to transfer their share of the said suit property in favour of their mother, the defendant

No. 1, I reasonably apprehends that the defendant NOO. 1 may transfer the said suit property to a third party to the detriment of my interests created in the said suit property by way of agreement and affidavits as stated hereinabove.

The defendants have also usurped Rs.10,53,000/- from me and if the defendants succeed in the said plan, I shall stand to suffer irreparable loss and injury not compensable by money value.

... This is true to my knowledge.

20) Therefore I was compelled to file this suit and I am well entitled to get reliefs as prayed for in law and equity.

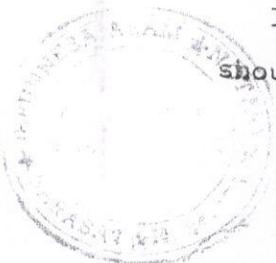
.. This is true to my knowledge and belief.

21) That the cause of action arose on 11.04.2002, thereafter from time to time and lastly on 16.04.2008 when the irrevocable power of attorney was executed by the defendant Nos. 1 and 2 in favour of the plaintiff at EC-130, Salt Lake City, Sector-I, Kolkata-700 064, under Police Station Bidhannagar (North), in the District of North 24-Parganas within the jurisdiction of this Learned court.

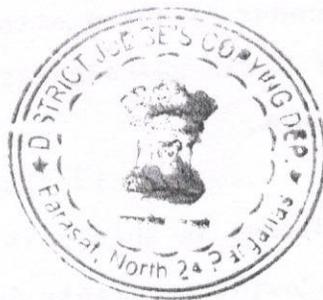
.. This is true to my knowledge.

I pray for decree in this suit as per prayers of my plaint.

I am filing following documents in support of my case which should be marked Exhibits :


Jasvanti Das.

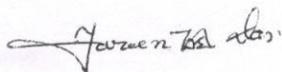
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(10)

- i) This is the original death certificate of Bishnupada Das issued by the C.M.C. dated 17.08.1990, handed over to me by the defendants to me .This should be marked as Ext- 1.
- ii) This is the Agreement for Nomination /Assignment executed by the defendants on 11.04.2002 in my favour being Authenticated before Ld.Notary Sri Basudev Gopal Roy witnesses & defendants signed in my presence. I know their signatures. This should be marked as Ext. 2.
- iii) This is the General Power of Attorney executed by defendants in my favour on 11.04.2002 being Authenticated before Ld.Notary Sri Basudev Gopal Roy, witnesses and defendants signed in my presence. I know their signatures. This should be marked as Ext- 3.
- iv) These are four (4) money receipts showing payments made by me to the defendants. Defendants signed in my presence on receipt of money and witnesses also signed in my presence. I know all their signatures and hand writings. These should be marked as Ext- 4 series.
- v) This is the certified copy of order passed by Ld. 1st class Judicial Magistrate at Bidhannagar in Case No. G.R. 2016 /05. This should be marked as Ext- 5.
- vi) This is the certified copy of order and petition of T,S. NO.103/2003 of this Ld.court.

.. This should be marked as Ext. 6.



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Checked by





vii) This is the Power of Attorney dt. 16.04.2008 executed by the defendants in my favour. This was prepared by Sm-Sabita Mukherjee Ld. Advocate as per instruction of the defendants and typed by the typist of the Ld. Advocate and the defendants and said Ld. Advocate and all witnesses signed in my presence. I was all along presence. I also signed on the same .

..This should be marked as Ext. 7.

viii) These are the receipt copies of letter issued by me to the competent authorities including my signatures as office copies.

..These should be marked as Ext- 8 series.

ix) This is the letter/notice issued by the U.D. Department to me dt. 09.09.2010 for hearing.

..This should be marked as Ext- 9.

x) This is the revised sanctioned plan in respect of the suit property issued by competent authority and obtained by me. This should be marked as Ext. 10.

xi) These are the xerox copies of Lease Deed of the suit property, letter of Debabrata Gupta and order of Hon'ble High court in Insolvency in I.C.No. 27X 2 of 2003.

That the above statements are true to the best of my knowledge and belief and I sign this Affidavit-in-chief to-day at court premises.

Farzana Khatun

(Signature of the Deponent)
Identified by me.

Harzok Mukherjee

Advocate



(Signature of Notary)
Notary
North 24
Reg. No. 1/82

Solemnly affirmed on 2/11/11
by the party left hand identified by
Advocate T. Mukherjee
This document contains eleven
pages and is checked by

Notary Clerk

09 NOV 2011

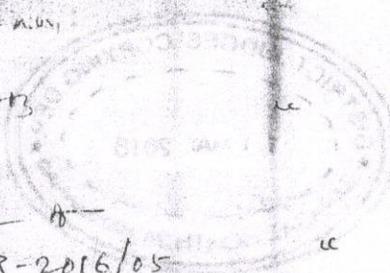


J.S. 205/10

13
X 5015 of 21/5/12
Exhibited Document 2 69 sheet
4/6/12

List of exhibited Documents

- Exnt. 1. Death certificate . . . 16-11-11 up press
- Exnt. 2. Agreement . . . " "
- Exnt. 3. Power of Attorney . . . " "
- Exnt. 4. Money Receipts Series . . . " "
- Exnt. 5. Certified Copy of order sheet of GR-2016/05 . . . " "
- Exnt. 6. Certified Copy of order sheets passed in TS. 103/03 . . . " "
- Exnt. 7. Power of attorney dt. 16.4.05 . . . " "
- Exnt. 8. Applications to U.O. Department dt. 2.3.8 10 . . . " "
- Exnt. 9. Original building plan . . . " "
- Exnt. 10. Certified Copy of order of the Hon'ble court . . . " "



13
CIVIL JUDGE
SR. DIVN. 2ND COURT
BARASAT
NORTH 24 PGS.
16-11-11

(All the exhibited documents are kept in a yellow cover file).





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④
Filed by
Sudhakar Chakrabarti
Advocate

DISTRICT : NORTH 24-PARGANAS

IN THE LEARNED 2ND COURT OF THE CIVIL JUDGE (SENIOR DIVISION)

AT BARASAT

30.10.12
17/10/12 A.36/12
474
26015
Injunction Pet. - 19-8-12
22-10-12

Title Suit No. 205 of 2010

In the Matter of :

An application for Injunction

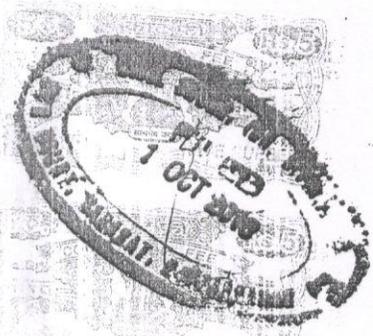
And-

In the Matter of :

Tarun Kumar Das, son of Late Santi Ranjan Das, Proprietor of M/s Artland, 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 having its office earlier at CD-295, Salt Lake City, Sector - I, Kolkata - 700 064 and presently at CJ-30 Salt Lake City, Sector - II, Kolkata - 700 091, in the District of North 24-Parganas.

..... Plaintiff.

-Versus-







Filed by Tarak Mukherjee
TARAK MUKHERJEE
5

1. Das, wife of Late Bishnupada Das, earlier residing at EC-130, Salt Lake City, Sector - I, Kolkata - 700 064, in the District of North 24-Pargana and now residing at 23-D, Bade Raipur Road, under Police Station Jadavpur, Kolkata - 700 032.

2. Smt. Anjana Chanda, wife of Dr. Bikash Chanda and daughter of Late Bishnupada Das residing at 23-D, Bade Raipur Road under Police Station Jadavpur, Kolkata - 700 032.

3. Amit Kumar Das, son of Late Bishnupada Das, earlier residing at EC-130, Salt Lake City, Sector - I, Kolkata - 700 064, in the District of North 24-Parganas and also of 49, Suri Lane, under Police Station Muchipara, Kolkata - 700 014.

..... Defendants.



Checked by





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TARAK MUKHERJEE
ADVOCATE

AN INJUNCTION APPLICATION UNDER ORDER 19 RULE 1 AND 2 READ
WITH SECTION 151 OF THE CODE OF CIVIL PROCEDURE

The humble petition of the plaintiff
above named most respectfully

SHEWETH :

1. That the plaintiff has filed the suit against the defendants inter-alia
praying for :-

a) Declaration that the plaintiff has the right to
do the construction work as per agreement
dated 11.04.2002 and the power of attorney
dated 11.04.2002;

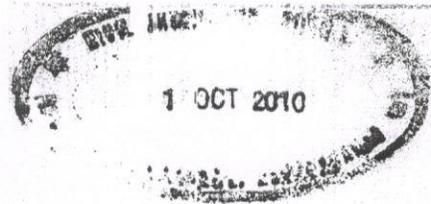
b) Injunction restraining the defendant Nos. 2
and 3 from transferring their respective shares
in the said suit property to the defendant No. 1;

c) Injunction restraining the defendant No. 1
from transferring the suit property or any part or
portion thereof to any third person;

d) Injunction restraining the defendants from
causing any obstruction or hindrance in the
construction work by the plaintiff according to







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ADVOCATE

TARAK MUKHERJEE
ADVOCATE

the agreements and power of attorney executed by the defendants in favour of the plaintiff in terms with the sanctioned building plan;

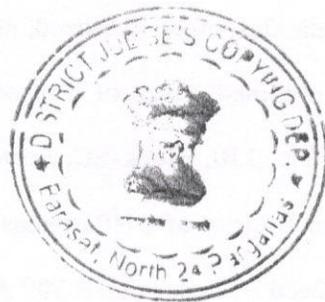
e) Injunction restraining the defendant Nos. 1, 2 and 3 from engaging or appointing any other person or persons to make construction work in the suit property excepting the plaintiff;

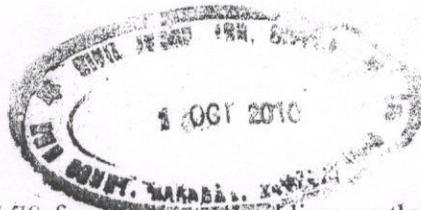
1. The brief facts of the case as stated in the plaint are as follows :-

i) That the plaintiff is engaged in the business of construction under the name and style "M/s. Artland" and the office earlier was at CD-295, Salt Lake City, Sector - I, under Police Station Bidhannagar (North), Kolkata - 700 064, in the District of North 24-Parganas and the present office is at CJ-30, Salt Lake City, Sector - II, Kolkata - 700 091, in the District of North 24-Parganas.

ii) That Bishnupada Das, since deceased, and his wife Smt. Arati Das, the defendant No. 1 jointly obtained a vacant plot of land measuring more or less 4.2395 cottahs being Plot No. 130, Block-EC, Sector - I of the Northern Salt Lake City extension area in the District of 24th Parganas now in North 24-Parganas on lease under a registered Deed of Lease dated 20th August, 1970 from the Governor of West Bengal for 999 years registered at the office at Cossipore Dum Dum, in







②
Tarak Mukherjee
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ADVOCATE

Book No.1, Volume No. 95, for the year 1970 for erecting a building on the said plot of leasehold land for residential purpose.

iii) That after taking possession of the said leasehold land the said Bishnupada Das applied to the Salt Lake Authority ie., Bidhannagar Notified Area Authority now Bidhannagar Municipality for sanction of the building plan and constructed a partly one storied residential building on the said plot of leasehold land and started living there with his family as described in the schedule below hereinafter referred to as the suit property.

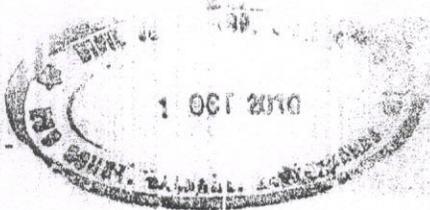
iv) That the said Bishnupada Das, however, died intestate on 15th July, 1990 leaving behind his widow Smt. Arati Das, the defendant No.1, one married daughter Smt. Anjana Chanda, the defendant No. 2 and a son Amit Kumar Das, the defendant No. 3.

v) That after the demise of the said Bishnupada Das, the defendant No. 1 wanted to make further construction upon the existing one storied residential building but she had no source of income and Banks and financial institutions also refused to sanction home loan.

vi) That the defendant No. 1 then contacted the plaintiff for making construction of the other two floors on the roof of the existing building and upon negotiation the plaintiff agreed to undertake the construction work and the defendant No. 1 agreed to engage the plaintiff to construct and to complete the







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TARAK MUKHERJEE
ADVOCATE

said two floors on the existing partly constructed ground floor and to give the first floor and the second floor to the plaintiff as tenant under the defendants.

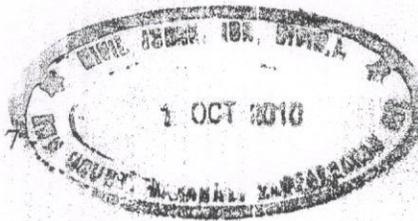
Accordingly an agreement by and between the plaintiff and the defendants was arrived on 11th April, 2002 which was notarised on 12th April, 2002 inter-alia on the following terms and conditions :-

- i) That the plaintiff shall pay an amount of Rs. 13,60,000/- to the defendants as security deposit;
- i) That the defendants shall obtain the necessary permission from the competent authority and accordingly a notarised power of attorney was made and executed by the defendants in favour of the plaintiff to carry out the construction work.
- vii) According to the said Agreement dated 11.04.2002 the plaintiff paid Rs. 9,26,000/ by cheque and cash as follows :

11.04.2002	Rs. 1,60,000/-
15.05.2002	Rs. 1,00,000/-
19.05.2002	Rs. 1,00,000/-
03.08.2002	Rs. 50,000/-
18.09.2002	Rs. 98,500/-
11.10.2002	Rs. 1,00,000/-
12.11.2002	Rs. 50,000/-







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ADVOCATE

12.11.2002	Rs. 50,000/-

	Rs. 7,08,500/-
The plaintiff also paid	Rs. 50,000/-
02.12.2002	Rs. 1,00,000/-
05.12. 2002	<u>Rs. 67,500/-</u>
Total	Rs. 9,26,000/-

And these payments have been acknowledged by way of money receipts by all the defendants more particularly the defendant No. 1 Smt. Arati Das.

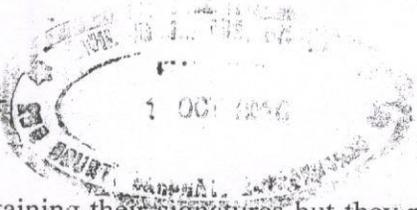
viii) That the plaintiff started construction work for raising two more floors as per the earlier sanctioned plan in the front portion of the ground floor in the said building which was kept vacant by the defendant's husband. At that period the defendant No. 1 inducted one Debabrata Gupta in a portion of the ground floor in that building without any intimation and consent of the plaintiff and the plaintiff came to know about the said tenancy from a letter / intimation addressed to the Chairman of the Bidhanagar Municipality vide letter dated 18.04.2007 written by the said Debabrata Gupta that he has taken a portion of the ground floor of the said suit property on tenancy basis.

Furthermore the plaintiff at his own cost prepared a revised building plan for the purpose of obtaining sanction from the municipal authorities and



Checked by





(11)

Arati Das

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TARAK MURHERJEE

ADVOCATE

forwarded it to the said defendants for obtaining their signatures but they refused to sign the same.

ix) That Smt. Arati Das, the defendant No. 1 thereafter left the said premises at EC-130, Salt Lake City, Sector - I, Kolkata - 700 064, in the District of North 24-Parganas and went to live at 23, Bade Raipur Road, under Post Office Jadavpur, Kolkata - 700 032 with her married daughter the defendant No. 2 and the son being the defendant No. 3 also left the said house who was subsequently declared insolvent by the Hon'ble High Court in its Original Civil Jurisdiction in Insolvency Case No. 1C-2 of 2003.

x) That the defendant No. 1, however, after taking so much amount of money created obstruction to the work by the plaintiff and also filed an application under Section 144(2) Cr. P.C. being M. P Case No. 18 of 2003 before the Sub-Divisional Executive Magistrate at Salt Lake and an order was obtained from that Executive Magistrate and accordingly the plaintiff stopped further work at the said suit property.

xi) The defendant No. 1 also filed an F.I.R on 30.04.2003 against the plaintiff before the Bidhannagar (North) Police Station being Bidhannagar P.S. Case No. 67 dated 30.04.2003 was started which was registered as G.R. Case No. 2016 of 2005 in the court of the Ld. ACJM, Bidhannagar.

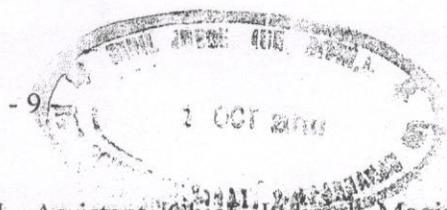
xii) The plaintiff appeared in the said criminal case and faced the trial



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and upon taking evidences the Ld. Assistant Chief Judicial Magistrate at Bidhannagar found the plaintiff not guilty and accordingly he was acquitted by and under the judgement and order dated 06.06.2007 under Section 255(1) of the Criminal Procedure Code.

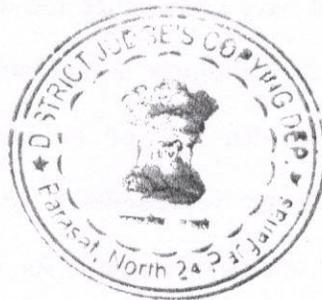
xiii) The defendant No. 1 further filed a Title Suit being No. 103 of 2003 before this Learned Court against the plaintiff inter-alia alleging that the plaintiff on 20.01.2003 made attempts for forcible possession of the suit property and prayed for an injunction restraining the plaintiff from disturbing peaceful possession of the plaintiff and from changing the nature and character of the said suit property.

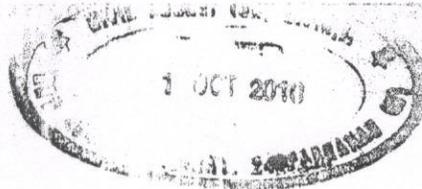
xiv) The plaintiff appeared in the said title suit as defendant and filed the written statement denying all the allegations made against him.

xv) That ultimately the plaintiff in the said title suit and the defendant No. 1 herein filed an application before this Learned Court stating that the matter and the dispute involved have been settled out of court by and between the said parties on the terms and conditions as envisaged in the compromise petition and thereafter prayed for dismissal of the said suit for non-prosecution and accordingly, the said title suit was dismissed for non-prosecution on 29.05.2007. The plaintiff thereafter further paid a sum of Rs. 1,02,000/- on 30th July, 2007 and the defendant Nos. 1 and 2 have acknowledged the receipt of the total amount of Rs. 10,28,000/- till the date of execution of the power of attorney.



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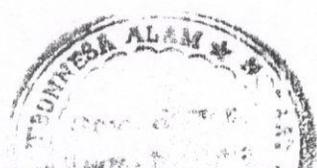


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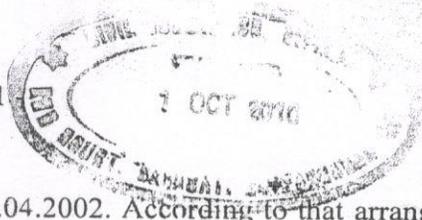
xvi) That the defendant Nos. 1 and 2, according to the terms of the said compromise petition, executed a Power of Attorney dated 16th April, 2008 permitting the plaintiff as the constituted attorney to proceed with the work of construction / development of the said suit property without any interference / objection / non co-operation from the said defendants. Subsequently the plaintiff also paid Rs. 25,000/- on 04.10.2008 to the defendant No. 1 which has also been duly acknowledged by the defendant No. 1 in the presence of witness being the defendant No. 2. Thus the total amount of Rs. 10,53,000/- has been paid by the plaintiff to the defendant Nos. 1 and 2 which has been duly acknowledged by the said defendant Nos. 1 and 2.

xvii) That the plaintiff also got the building plan prepared and sanctioned on 16.06.08 for raising the first and the second floor of the said building on the said suit property and wanted to raise the construction as per the Agreement and the Power of Attorney strictly in accordance with the said sanctioned building plan but the defendants again started creating obstruction to the said construction work at the said suit property and refused to offer any co-operation.

xviii) After discussions and persuasion, the plaintiff and the defendant No. 1 agreed that the plaintiff will carry on the said construction work and the defendant No. 1 also agreed that the defendant No. 1 will make a declaration that due to her old age it was not possible for her to represent everywhere before and during the said construction work and that the plaintiff will represent the defendant No. 1 as her authorised agent and do the needful on her behalf according to the







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Tarak M. Kherjee

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TARAK M. KHERJEE
ADVOCATE

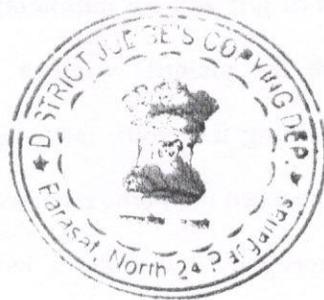
said General Power of Attorney dated 11.04.2002. According to that arrangement the defendant No. 1 agreed to execute an affidavit before the Notary Public reiterating the previous terms and conditions.

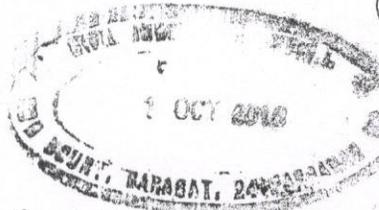
xix) That according to the said arrangement the plaintiff prepared the declaration and the affidavit on stamp papers purchased on 06.10.2009 and 09.12.2009 respectively but when the plaintiff placed the said two documents before the defendant No. 1 for obtaining the signature of the defendant No. 1, she backed out. Thereafter the plaintiff on several occasions requested the defendant No. 1 to co-operate with the plaintiff to complete the rest of the construction work as per the sanctioned plan but the defendant No. 1 refused to co-operate to the detriment of the interests of the plaintiff. The defendant No. 1 threatened that the said suit property would be transferred to a third party to make pecuniary gains.

xx) That recently the plaintiff has come to know that the defendant Nos. 2 and 3 have approached the Competent Authority to accord permission to transfer their respective shares in the said suit property to their mother, the defendant No. 1 by a deed of gift without intimating and obtaining the consent of the plaintiff and therefore the plaintiff wrote a letter to the said Competent Authority on 23.08.2010 stating the entire facts regarding the said suit property and requesting them not to accord the permission as prayed for by the defendants. The said Competent Authority by and under a letter dated 9th September, 2010 asked the plaintiff to appear at their office on 14.09.2010 for the purpose of hearing and on 14.09.2010, the plaintiff went to the said office of the Competent



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ADVOCATE

Authority and in course of the hearing was told that the plaintiff should approach the competent civil court for obtaining an appropriate order. If the defendant Nos. 2 and 3 succeed to transfer their share of the said suit property in favour of their mother, the defendant No. 1, the plaintiff reasonably apprehends that the defendant No. 1 may transfer the said suit property to a third party to the detriment of the interests of the plaintiff created in the said suit property by way of agreement and affidavits as stated hereinabove. The defendants have also usurped Rs. 10,53,000/- from the plaintiff and if the defendants succeed in the said plan, the plaintiff shall stand to suffer irreparable loss and injury not compensable by money value.

xxi) Therefore, the plaintiff files this suit for injunction restraining the defendant Nos. 2 and 3 from transferring their share to the defendant No. 1 or to any third party.

xxii) The plaintiff also prays for injunction restraining the defendant Nos. 2 and 3 from causing any hindrance and obstruction in raising the construction of the first floor and the second floor of the said building on the said suit property as per agreements, power of attorney and the sanctioned building plan.

xxiii) It is stated that due to such acts of the defendants which is causing delay in completing the construction work of the first floor and the second floor, the plaintiff is suffering financial loss continuously as because he has already paid Rs. 10,53,000/- (Rupees Ten Lakhs Fifty Thousand only) to the defendants and



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Shameem M. Sheri

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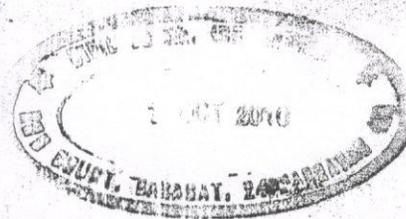
cost of materials and labour charges to the tune of Rs. 2,00,000/- (Rupees Two Lakhs only) approximately which the plaintiff has invested while carrying on the said construction work in the front portion of the said building on the said suit property in terms of the said sanctioned building plan

3. The plaintiff files this application for temporary ad-interim injunction in aid of the permanent injunction restraining the defendants and each of them :-

- a) Temporary injunction restraining the defendants Nos. 2 and 3 from transferring their respective shares in the suit property to the defendant No. 1;
- b) Temporary injunction restraining the defendant No. 1 from transferring the suit property or any part or portion thereof to any third person ;
- c) Temporary injunction restraining the defendants from causing any obstruction or hindrance in the construction work by the plaintiff according to the agreements and power of attorney executed by the







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defendants in favour of the plaintiff and
as per the sanctioned plan ;

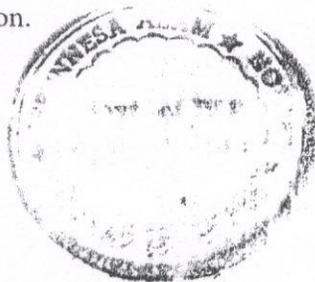
d) Temporary injunction restraining the defendants Nos. 1, 2 and 3 from engaging or appointing any other person or persons to make construction work in the suit property excepting the plaintiff ;

4. The plaintiff has a strong prima facie case and unless an injunction as prayed for is granted the plaintiff shall suffer irreparable loss and injury which cannot be compensated in money. On the other hand if the injunction as prayed for is granted the defendants shall not suffer any loss or injury whatsoever as the said defendants they have already usurped Rs. 10,53,000/- and the plaintiff has incurred expenditure of more than Rs. 2,00,000/-.

5. Therefore, the balance of convenience and inconvenience lies in favour of granting temporary injunction as prayed for

6. The matter is very urgent and any delay in granting injunction as prayed for shall render the suit and the application infructuous.

Therefore the plaintiff further prays for an ad-interim injunction in terms of the temporary injunction.



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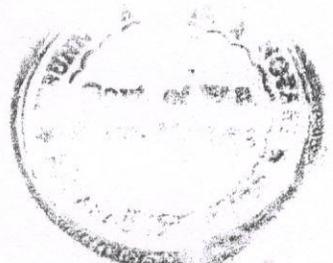
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The application is made bonafide and for the ends of justice.

The plaintiff, therefore, prays for :

- a) Issuance of temporary injunction upon the defendant Nos. 2 and 3 from transferring their respective shares in the suit property to the defendant No.1 ;
- b) Temporary injunction restraining the defendant No. 1 from transferring the suit property or any part or portion thereof to any third person ;
- c) Temporary injunction restraining the defendant Nos. 1, 2 and 3 from causing any obstruction or hindrance in the construction work by the plaintiff according to the Agreements, the Power of Attorney executed by the defendants in favour of the plaintiff in terms of the sanctioned plan ;



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d) Injunction restraining the defendant Nos. 1, 2 and 3 from engaging or appointing any other person or persons to make construction work in the suit property excepting the plaintiff ;

e) The plaintiff also prays for ad-interim injunction in terms of prayers a), b), c) and d) above ;

1) Cost of the application ;

3) Pass any other order / orders as to Your Honour may deem fit and proper.

And for that the petitioner, as in duty bound, shall ever pray.



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ADVOCATE

List of copies of documents filed :-

1. Deed of Lease dated 20.08.1970.
2. Death Certificate of original Lessee Bishmpada Das
3. Agreement for Assignment executed by the defendants dated 11.04.02
4. General Power of Attorney executed by the defendants dated 11.04.02
5. Money Receipts dated 12.11.02, 02.12.02, 05.12.02, 06.12.02, 30.07.07 & 04.10.08
6. Debabrata Gupta's letter to the Chairman, Bidhannagar Municipality dated 18.04.07
7. Declaration of insolvency of Amit Kumar Das, defendant No. 3 by the Hon'ble High Court in Insolvency Case No. 1C-2 of 2003.
8. Acquittal in Criminal Case G.R. No. 2016/05 --- Judgement dated 06.06.07
9. Compromise petition filed in T.S. No. 103/03.
10. Non-prosecution of T.S. No. 103/03 ---- Order dated 29.05.2007.
11. Irrevocable Power of Attorney executed by the defendants dated 16.04.08
12. 2 Nos. draft affidavit-cum-declaration of Smt Arati Das, defendant No. 1
13. Complaint letter of plaintiff to the Competent Authority dated 23.08.10.
14. Letter of hearing of the Competent Authority to plaintiff dated 09.09.10.







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of account

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ADVOCATE

SCHEDULE :

All that the rent free land measuring 4.2395 cottahs being the land a little more or less together with the partly built one storied building situated in plot No. 130 in Block EC, Sector - I, Salt Lake City, under Police Station Bidhannagar (North), Sub-registration office at Bidhannagar, in the District of North 24-Parganas butted and bounded by :

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 & Type VI Road.

On the East : Plot No. 129 (4k) in Block EC & Type VI Road.

On the West : Plot No. 24 (5k) and 131 (4k) in Block EC.

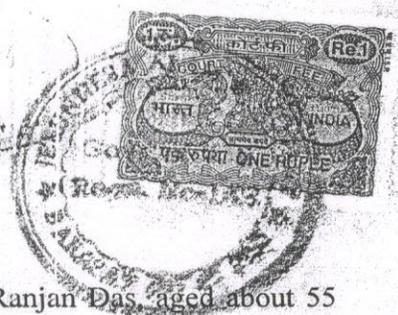


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19 - OCT 2010

BEFORE THE NOTARY PUBLIC, SARASAT NOTARY AFFIDAVIT



N.R. SL. No. 22/16
Date: 01 OCT 2010

I, Tarun Kumar Das, son of Late Santi Ranjan Das, aged about 55 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 plaintiff 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 01 to 02 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 1st day of October, 2010 at the court premises.

Tarun Kumar Das
Deponent

Prepared in my office
Saraly Chakraborty
Advocate

Identified by me
Saraly Chakraborty
01/10/10
Advocate

Solemnly Affirmed on 01/10/10
by the Party, being duly identified by
Advocate Saraly Chakraborty

Saraly Chakraborty
Notary Public, Sarasat
North 24 P. No. Bidhannagar

THIS DOCUMENT CONTAINS
PAGES AND IS CHECKED BY
NOTARY CLERK





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Tarun Kr. Das

Filed by
Harsh Halder
Advocate

District North 24-Parganas.
In the 2nd court of Id. Civil Judge (Sr. Dinn) at Barasat.

Ref :- T.S.NO. 205/2010.

Sri Tarun Kr. Das .. Plaintiff.

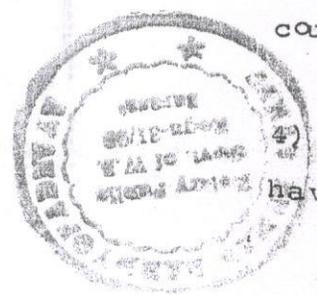
-Versus-

Smt. Arati Das & Ors .. Defendants.

Petition under order- 5, Rule- 20 C.P. Code
on behalf of the plaintiff.

Most respectfully sheweth :-

- 1) That the plaintiff filed the instant suit for declaration and injunction in respect of the suit property against the defendants and the same is pending before your Honour for trial.
- 2) That on prayer of the plaintiff your Honour was pleased to pass an order of ad-interim injunction and the same is still in force.
- 3) That your plaintiff filed proper requisities for injunction and sent summons through this Id. court upon the defendants.



4) That inspite of sending summons twice, those have yet been returned before this Id. court and

c..p/2.





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*Filed by
H. G. Ghosh
Advocate*

(2)

the defendants are some how managing such summons to avoid this case.

5) That accordingly the summons should be served upon the defendants in alternative way to avoid unnecessary delay, otherwise your plaintiff will suffer irreparable loss and injury and the plaintiff is ready to bear the costs for such alternative service of summons.

6) That the instant petition is made bonafide Hence it is most humbly prayed that your Honour would graciously be pleased to pass necessary order to serve summons upon the defendants through alternative service preferably by publishing in daily Bengali newspaper and pass such other order or orders as your Honour may deem fit and proper.

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



c..p/1.

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AFFIDAVIT

I Tarun Kumar Das son of Late Santi Ranjan Das, proprietor of M/S. Artland, residing at EE/13/8, Salt Lake City, Sector-II, Kolkata-700 091, P.S. Bidhannagar (East), District North 24-Parganas, aged about 56 years by faith Hindu, by occupation business, do hereby solemnly affirm and declare as follows :-



24 MAY 2011

- 1) That I am the plaintiff and am well conversant with the facts and circumstances of this instant petition.
- 2) That the statements made in foregoing paragraphs are true to my knowledge and belief and I sign this affidavit to-day at court premises.

Tarun Kumar Das
(Signature of the deponent)

Identified by me.
Tarak Mukherjee

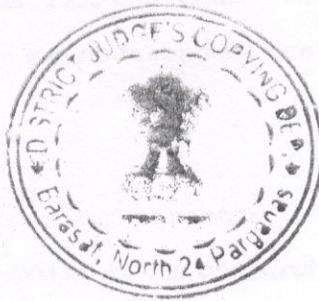
Advocate

Identified by *Tarak Mukherjee*

SLD
A. L. BHADURIPADHYAY
Notary Public
Govt. of W. B.,
Barabati North 24 Parganas

17

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Compared and found to be true
copy and correctly stamped

Saima Khan 11/05/18
Comparing Clerk
District Judges Court
North 24 Parganas, Barasat

Certified to be true copy
Sudhanshu Dasgupta
District Judges Copying Dept.
North 24 Parganas, Barasat
11/05/18