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667/13



पश्चिमबङ्ग पश्चिम बंगाल WEST BENGAL

N 063934

*R. P. Singh*  
*349*  
*1-15*  
*18/1/13*  
*22/1/13*



Certified that the Duress is admissible in Registration. The Registrar's Seal and endorsement were affixed to the instrument as the part of this procedure.

Additional Registrar of Assurances, Kolkata

*Pranika Chakrabarti*

*Additional Registrar of Assurances II, Kolkata*

**THIS INDENTURE OF CONVEYANCE** made this the 18<sup>th</sup> day

of January, Two Thousand and Thirteen, **B E T W E E N** (1) **RAJ KUMAR DHANANIA** alias Agarwala, son of Late Harkishan Das Agarwal, residing at 1, Lord Sinha Road, Kolkata-700 071, (2) **SMT. PRAMILA KAMALIA**, wife of Harish Kamalia and daughter of Late Harkishandas Agarwal, residing at Flat No. 801, 'B Wing', Madhuban Apartments, Upper Govindnagar, Mumbai-400097, (3) **RAMESH KUMAR DHANANIA** alias Agarwala, son of Late Harkishan Das Agarwal, residing at 1, Lord Sinha Road,

High Court Original Side  
 Suit No: *CS 619/85*  
 Exh: *U4*  
 Date: *27/4/16*

93655

Said to.....
Address.....
Value 400
5 OCT 2012
High Court A.S.

SINGHVI & CO.  
Advocates  
1C, Kiran Shankar Roy Road,  
1st Floor, Calcutta - 700 001.



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Dulal Ghosh  
S/o Late Kartick Ghosh  
Shyamper, Howrah - 711314  
Business

Kolkata-700 071, (4) **SMT. BELA GOEL**, wife of Srawan Goel and daughter of Late Harkishandas Agarwala, residing at 11-4-1/II, Flat No.202, East Coast Residency, Rockdale Layout, Visakhapatnam-530002, (5) **NIRMAL DHANANIA alias Agarwala**, son of Late Harkishan Das Agarwal, residing at 1, Lord Sinha Road, Kolkata-700 071, (6) **SMT. NILU PODDAR**, wife of Sri Sanjay Poddar and daughter of Late Harkishandas Agarwal, residing at 701, Ramkrishna Sadan, Poachkhanawala Road, Worli Sea Face, Mumbai-400028 all acting through **MRS. MOUMITA CHATTERJEE**, Advocate wife of Sri Kaushik Chatterjee, having her PAN No. AFPPC1742P, residing at 32/1A, Gobinda Ghosal Lane, Kolkata - <sup>700025,</sup> ~~700027~~, P.S. - Bhawanipore, having been appointed as the **RECEIVER** in pursuance of a Decree dated July 29, 2004 passed by the Hon'ble High Court, Calcutta in C.S. No. 619 of 1985 (Pawan Properties -Versus- Biswanath Agarwal & Ors.) in respect of one fourth share belonging to **LATE HARKISHANDAS AGARWAL** in or upon Municipal Premises No.46, Shakespeare Sarani (formerly Theatre Road) Kolkata-700 019, hereinafter referred to as the "**VENDORS/RECEIVER**" (which term or expression shall unless excluded by or repugnant to the subject or context be deemed to mean and include her successor and/or successors in office) of the **FIRST PART : A N D M/S. PAWAN PROPERTIES**, a registered partnership firm carrying on business and/or having its Office at No. 10/ ID, Lal Bazar Street, 3<sup>rd</sup> floor, Kolkata - 700 001, having its Income Tax Pan No. AAKFP5902E hereinafter referred to as the "**PURCHASER**" represented by its one of the Partner namely **MR. SHYAM SUNDAR NANGALIA**, son of Late Bhuramull Nangalia, aged about 63 years, by faith Hindu, by occupation business, residing at 32C,



ADMITTA CIVILE REGISTRATION  
OF LAW DEGREE STUDENTS  
18 JAN 2019

New Road, Block - "B", 3<sup>rd</sup> Floor, Kolkata-700 027, P.S. - Alipore, (which term or expression shall unless excluded by or repugnant to the subject or context be deemed to mean and include its present partner and/or partners and/or those who may be taken in and/or admitted as partner and/or partners and their respective heirs, legal representatives, executors, administrators and assigns) of the **SECOND PART** :

**W H E R E A S :**

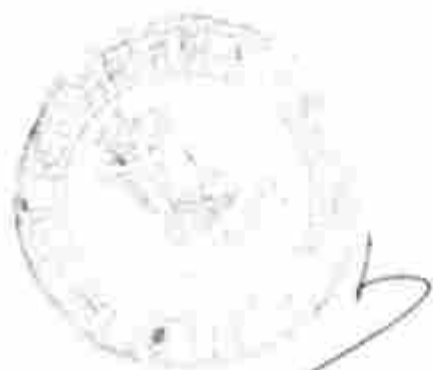
- A. By a registered Deed of Conveyance dated May 6, 1957 registered at the office of the Registrar of Assurances, Calcutta in Book No. 1, Volume No. 56, Pages 117 to 123, Being No. 1558 for the year 1957 Md. Gulsaigal and Others therein collectively referred to as the Vendor of the One Part sold transferred and conveyed **ALL THAT** the Municipal Premises Nos.46A and 46B, Theatre Road (now known as Shakespeare Sarani) Kolkata-700 017 unto and in favour of (1) Sankar Lal Agarwal, (2) Ramjidas Agarwal, (3) Dinanath Agarwala and (4) Harkishandas Agarwal therein referred to as the Purchasers and (hereinafter collectively referred to as the **ORIGINAL OWNERS**) for the consideration and subject to the terms and conditions contained and recorded in the said Indenture each of the said original owners being entitled to undivided one fourth share or interest therein.
- B. The said Premises Nos.46A and 46B, Theatre Road (now known as Shakespeare Sarani), Kolkata-700 017 has since been renumbered as Municipal Premises No.46, Shakespeare Sarani, Kolkata-700 017 (more fully and particularly mentioned and described in the **FIRST SCHEDULE** hereunder written and shown delineated in red



RECEIVED BY  
REGISTRAR OF ASSURANCES  
18 JAN 1919

border in the map or plan annexed hereto and is hereinafter referred to as the said **PREMISES**).

- C. By an agreement dated October 13, 1982 registered at the office of the Registrar of Assurances, Calcutta in Book No. 1, Volume No. 94, Pages 113 to 126, Being No. 1285, for the year 1983 and made between the said Original Owners therein collectively referred to as the Owners of the One Part and the Purchaser herein the said Original Owners granted the exclusive right of development and sale in respect of the said Premises unto and in favour of the said Pawan Properties namely the Purchaser herein for the consideration and subject to the terms and conditions contained and recorded in the said Agreement (hereinafter referred to as the **PURCHASER'S AGREEMENT**).
- D. Disputes and differences having arisen between the said Original Owners and the said Pawan Properties the Purchaser herein the Purchaser filed a suit being C.S. No. 619 of 1985 in the Hon'ble High Court, Calcutta against the said original owners inter alia for specific performance of the said Purchaser's Agreement and for other consequential reliefs (hereinafter referred to as the **PURCHASER'S SUIT**).
- E. During pendency of the said Purchasers Suit disputes and differences having arisen between the said original owners, Ramjidas Agarwal (since deceased) one of the Original



ADMINISTRATIVE REGISTER  
OF ALEXANDRIA UNIVERSITY  
18 JAN 2013



Owners and being entitled to undivided one fourth share or interest into or upon the said premises filed a suit being C.S. No. 148 of 2002 in the Hon'ble High Court, Calcutta for partition of the said premises by metes and bounds and for other consequential reliefs (hereinafter referred to as the **PARTITION SUIT**).

F. The said Harkishan Das Agarwal and the Purchaser entered into a Terms of Settlement dated November 25, 2003 in Title Suit No. C.S. No. 619 of 1985 being G.A. No. 4027 of 2003 whereby the said Harkishan Das Agarwal being entitled to the undivided one fourth share or interest into or upon the entirety of the said Premises (hereinafter referred to as the said **UNDIVIDED SHARE**) more fully and particularly mentioned and described in the **SECOND SCHEDULE** hereunder written agreed to sell and transfer the said 'Undivided Share' unto and in favour of the Purchaser for the consideration and subject to the terms and conditions contained and recorded in the said Terms of Settlement.

G. The application for recording the terms of settlement and for passing a decree on the basis thereof being G.A. No. 4027 of 2003 was heard by the Hon'ble High Court at Calcutta and after a contested hearing a Decree was passed on July 29, 2004 in accordance with the terms of the said Terms of Settlement whereby the Purchaser became entitled to acquire the entirety of the right title interest of the said Harkishan Das Agarwal into or upon the



6  
AMERICAN FRIENDS SERVICE COMMITTEE  
OF AMERICA  
18 JAN 1913

said Premises and in the agreement dated October 13, 1982 for the consideration therein mentioned.

- H. In pursuance of the said Decree and the terms of settlement the Purchaser paid a sum of Rs.85 lakhs to the said Harkishan Das Agarwal since deceased by cheques drawn on Andhra Bank, Ezra Street (Kolkata Main Branch) as per details given below :

Payee's Name		Cheque No.	Amount (Rs.)	Cheque dated	Encashed on
Harkishan Agarwal	Das	439992	40,00,000/-	18.11.03	18.11.03
	-Do-	819947	20,00,000/-	05.10.04	06.10.04
	-Do-	819959	10,00,000/-	19.01.05	24.01.05
	-Do-	819963	10,00,000/-	04.02.05	07.02.05
	-Do-	819985	5,00,000/-	16.06.05	21.05.05

- I. In the said partition suit being C.S No. 148 of 2002, a preliminary decree dated May 6, 2005 was passed declaring that the said Harkishan Das Agarwal was entitled to one fourth share in the said premises.
- J. The said purchaser filed an application for execution of the decree dated July 29, 2004 against all the heirs of Late Harkishan Das Agarwal being E.C. No. 128 of 2011 and by an order dated December 21, 2012 the Hon'ble High Court at Calcutta was pleased to direct Receiver to execute and register the Deed of Conveyance in respect of 1/4<sup>th</sup> undivided share of the said premises in favour of the Purchaser. The said order further



ALBERTA GOVERNMENT  
OFFICE OF THE ATTORNEY GENERAL  
18 JAN 2019

directed the said Pawan Properties to have the building plan sanctioned and to construct a multistoried building and deliver 4000 sq.ft. along with 3 car parking space to the said Vendors within a period of 3 years from the date of sanction of the building plan. A Xerox copy of the certified copy of the said order is annexed hereto and marked with letter 'A'.

- K. In terms of the said order dated December 21, 2012 the purchaser has approached the learned Receiver for execution and registration of this Deed of Conveyance,

**NOW THIS INDENTURE WITNESSETH** that in pursuance of the said Agreement and in pursuance of the said Decree dated July 29, 2004 **AND** in terms of the order dated December 21, 2012 passed in E.C. No.128 of 2011 **AND** in further consideration of a sum of Rs.85,00,000/- (Rupees eighty five lakhs) only of the lawful money of the Union of India well and truly paid by the Purchaser to the predecessor in interest of the Vendors and/or to each of them which amount has been paid as detailed out in Recital 'H' herein above at or before the execution of these presents (the receipt whereof the Vendors and each one of them acting through the Receiver doth hereby admit and acknowledge to have been received and of and from the payment of the same and every part thereof doth hereby acquit release and discharge the Purchaser and the said Undivided 1/4<sup>th</sup> share in the FIRST SCHEDULE PREMISES hereby intended to be sold transferred and conveyed) **AND** in the further consideration of the Purchaser providing and delivering a flat in the New



ADDITIONAL REGISTRAR  
OF ASSURANCES, CALCUTTA  
18 JAN 2013

Building to be constructed at the said premises having a super built up area of 4000 sq.ft. be the same a little more or less along with parking space for three cars in terms of the said Decree dated July 29, 2004 the Vendors and each one of them doth hereby indefeasibly grant sell transfer convey assign and assure unto and to the Purchaser **ALL THAT** the Undivided 1/4<sup>th</sup> share or interest belonging to the Vendors equivalent to 25% (twenty five per cent) into or upon and/or the entirety of the right title and interest of the Vendors into or upon **ALL THAT** the Municipal Premises No.46, Shakespeare Sarani, Kolkata-700 017 (more fully and particularly mentioned and described in the **FIRST SCHEDULE** hereunder written and hereinafter referred to as the said **PREMISES**) containing by estimation 2 Bighas, 0 Cottahs, 8 Chittacks and 20 sq.ft. **TOGETHER WITH** proportionate share in all constructions standing thereon hereunder written and hereinafter referred to as the said **UNDIVIDED SHARE** more fully and particularly described in the **SECOND SCHEDULE** herein written free from all encumbrances charges liens lispendens, attachments trusts whatsoever or howsoever **OR HOWSOEVER OTHERWISE** the said Undivided Share or any part or portion thereof now is or are or at any time or times heretofore was or were situated butted and bounded called known numbered described or distinguished **TOGETHER WITH** all benefits and advantages of ancient and other lights all yards courtyards areas sewers drain ways water courses ditches fences paths and all manner of former and other rights liberties easements privileges walls fences advantages appendages and appurtenances whatsoever to the said property and/or the said undivided share or any part or portion thereof belonging thereto or in



*[Handwritten signature]*

ADDITIONAL SECRETARY  
OF ASSURANCE & MEDICAL  
18 JAN 2013



anyways appertaining to or with the same or any part or portion thereof now are or is or at any time or times heretofore were or was held used occupied or appertaining or enjoyed therewith or reputed to belong or appertain thereto **AND** the reversion or reversions remainder or remainders and the rents issues and profits of the said Undivided Share and every part or portion thereof **A N D** all the legal incidences thereof **AND** all the estate right title interest inheritance possession use trust property claims and demands whatsoever both at law and in equity of the Vendors into or upon and in respect of the said Undivided Share or any and every part thereof herein comprised and hereby sold granted and transferred **TOGETHER WITH** all deeds pattahs muniments and evidences of title which are anyways exclusively relates to or concerns the said property/Undivided Share or any part or parcel thereof which now are or hereafter shall or may be in the custody power possession or control of the Vendors or any person or persons from whom the Vendors can or may procure the same without any action or suit at law or in equity **TO HAVE AND TO HOLD** the said Undivided Share hereby granted sold conveyed transferred assigned assured or expressed or intended so to be with all rights and appurtenances belonging thereto unto and to the use of the Purchaser absolutely and forever free from all encumbrances charges liens claims demands mortgages leases licenses liabilities trust attachments acquisitions requisitions prohibitions restrictions easements and lispensens whatsoever **WITH ALL** the rights benefits members easements and appurtenances thereto unto and to the use of the Purchaser herein absolutely and forever free from all encumbrances charges liens lispensens attachments trusts acquisitions



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ADDITIONAL REGISTRAR  
OF ASSURANCES, BANGALORE  
18 JAN 2013

requisitions whatsoever or howsoever **AND** free and clear and freely and clearly and absolutely acquitted exonerated and released or otherwise well and sufficiently indemnified from and against all manner estates claims charges liens attachments and encumbrances **AND** further all right title and interest of the Vendors in the agreement dated October 13, 1982 stand extinguished in terms of the said decree dated July 29, 2004.

**THE FIRST SCHEDULE ABOVE REFERRED TO  
(THE SAID PREMISES)**

**ALL THAT** the messuage tenement and hereditaments **TOGETHER WITH** the piece and parcel of revenue redeemed land containing an area of 2 Bigha 0 Cottahs 8 Chittacks 20 sq. ft. (be the same a little more or less) hereon or any part whereof the same is erected and built being Municipal Premises Nos.46A and 46B, Theatre Road (now known as premises No.46, Shakespeare Sarani) Kolkata-700 017, within Police Station - Shakespeare Sarani, within Ward No.63 and within the limits of Kolkata Municipal Corporation in the South Division of Kolkata and butted and bounded as follows, that is to say :

- ON THE NORTH** : By Shakespeare Sarani;
- ON THE SOUTH** : By premises No.1, Auckland Square;
- ON THE EAST** : By premises No.48, Shakespeare Sarani,  
(known as Kala Mandir); and
- ON THE WEST** : By partly premises No.44, Shakespeare Sarani (IDBI Building) and partly premises No.2, Auckland Square;



ADMINISTRATIVE REGISTER  
OF ASSURANCE COMPANIES  
18 JAN 2010

**OR HOWSOEVER OTHERWISE** the said premises butted bounded called known numbered described and distinguished as hereinbefore stated and the situation whereof has been shown and delineated in the map or plan annexed hereto and bordered in **RED** colour thereon.

**THE SECOND SCHEDULE ABOVE REFERRED TO  
(THE SAID UNDIVIDED SHARE)**

**ALL THAT** the Undivided 1/4<sup>th</sup> share or interest held by the Vendors being 1/4<sup>th</sup> share or interest into or upon the said premises consisting of (i.e. Bastu land 5.7321 katha and semi commercial land 4.3998 katha, 1263 sq. ft. residential pucca cemented structure on the ground floor, 1263 sq.ft. residential pucca structure on the first floor, 2529 sq.ft. residential tin shed cemented structure on the ground floor, 549 sq.ft. semi commercial cemented pucca structure on the ground floor, 549 sq.ft. semi commercial cemented tin shed structure on the first floor of the said premises more fully and particularly mentioned and described in the First Schedule hereinbefore written and/or the entirety of the right title and interest of the VENDOR into or upon the said premises.

**IN WITNESS WHEREOF** the parties hereto have hereunto set and subscribed their respective hands and seals the day month and year first above written.



ADDRESS MINISTER  
OF AGRICULTURE, GOVT. OF KARNATAKA  
18 JAN 2013

**SIGNED AND DELIVERED** by the said  
**RECEIVER MRS. MOUMITA**  
**CHATTERJEE** (for and on behalf of the  
**VENDOR** in terms of the decree dated July  
 29, 2004 and the order dated December  
 21, 2012) at Kolkata in the presence of:

*Moumita Chatterjee*  
 Receiver

**WITNESSES:**

1. *Rahul Kothari*  
 7C K.S. Roy Road  
 Kolkata - 700001
2. *Ram Kumar Manna*  
 Vill + Post. Dihikagan  
 District. Hooghly

**SIGNED AND DELIVERED** by the said  
**PURCHASER** at Kolkata in the presence  
 of:

**GUARAN PROPERTY**

*[Signature]*  
**(S.S. NANGALIA)**

**WITNESSES:**

1. *Rahul Kothari*  
 7C K.S. Roy Road  
 Kolkata - 700001
2. *Dulal Ghosh*  
 Clubbing, Howrah



*[Handwritten signature]*

ADDITIONAL REGISTRAR  
OF ABBOTABAD  
18 JAN 2013



## MEMO OF CONSIDERATION

**RECEIVED** of and from the within named **PURCHASER** the within mentioned sum of Rs.85,00,000/- (Rupees Eighty Five lacs only) being the entirety of the consideration amount payable to the Vendors under these presents as per memo below :

1. Late Harkishan Das Agarwal, by several cheques aggregating Rs.85,00,000/- drawn on Andhra Bank, Ezra Street, (Kolkata Main Branch), Kolkata as per details given below :

Cheque No.	Dated	In favour of	Amount Rs.
439992	18.11.2003	Harkishandas Agarwal	40,00,000/-
819947	05.10.2004	-Do-	20,00,000/-
819959	19.01.2005	-Do-	10,00,000/-
819963	04.02.2005	-Do-	10,00,000/-
819985	16.06.2005	-Do-	5,00,000/-
<b>Total :</b>			<b>85,00,000/-</b>

(Rupees Eighty five lacs only)

## WITNESSES:

1. Rahul Kothari  
7C K.S. Roy Road  
Kolkata - 700001

Mamita Chatterjee  
Receiver

2. Ram Kumar Manu  
vill+post, Dikibagan  
District Hooghly

Drafted by :  
Saneelaloyanil Advocate  
High Court at Calcutta.



ADDITIONAL REGISTRAR  
OF ASSURANCES, GUYANA  
18 JAN 2013

SITE PLAN OF PREMISES NO-46, SHAKESPEARE SARANI, KOLKATA-700071.

AREA OF LAND - 28.00 BCHA - 205 FT.

DEFENDANT NO-4 :- YOUNGSTER KUNAR CHANNIA ALIAS AGARWAL.

DEFENDANT NO-1 :- HEIRS LEGAL REPRESENTATIVE AND/OR

PERSONS CLAIMING THROUGH OR UNDER LATE DINAKHATH AGARWAL.

SCALE IN FT.



N

**PAN PROPERTIES**  
*[Signature]*  
 Partner

*[Signature]*  
 Partner

INVESTED BY SARANI

P. D/38

(14)



+

ADDITIONAL REGISTRAR  
OF ASSISTANT REGISTRARS  
18 JAN 2013



	Thumb	1 <sup>st</sup> finger	Middle Finger	Ring Finger	Small Finger
left hand					
right hand					

Name S. S. NANGALIA

Signature [Signature]



	Thumb	1 <sup>st</sup> finger	Middle Finger	Ring Finger	Small Finger
left hand					
right hand					

Name Minamita Chatterjee

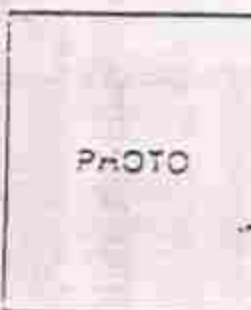
Signature Minamita Chatterjee



	Thumb	1 <sup>st</sup> finger	Middle Finger	Ring Finger	Small Finger
left hand					
right hand					

Name .....

Signature .....



	Thumb	1 <sup>st</sup> finger	Middle Finger	Ring Finger	Small Finger
left hand					
right hand					

Name .....



22-11-2013

E. C. NO. 128 OF 2011

C.S. NO. 619 OF 1985

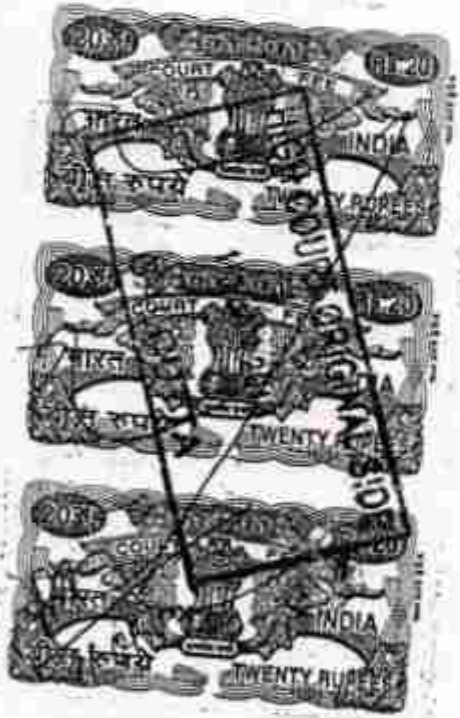
IN THE HIGH COURT AT CALCUTTA  
ORDINARY ORIGINAL CIVIL JURISDICTION

Pawan Properties, a registered Partnership Firm having its registered office at 10/1D, Lal Bazaar Street, Kolkata-700 001, within the aforesaid jurisdiction.

... .. Petitioner.

Versus

1. Raj Kumar Dhanania, son of Late Harkishan Das Agarwal, residing at premises No.1, Lord Sinha Road, Kolkata-700 071, within the aforesaid jurisdiction.
2. Smt. Pramila Dhanania, daughter of Late Harkishan Das Agarwal, residing at 1, Lord Sinha Road, Kolkata-700 071, within the aforesaid jurisdiction.
3. Shri Ramesh Dhanania, son of Late Harkishan Das Agarwal, residing at 1, Lord Sinha Road,



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*Pramita Chatterjee*



ADDITIONAL COMMITTEE  
OF ABSTRACTS, KAZAN  
18 JAN 2013

1 7 2013



Kolkata-700 071, within the aforesaid jurisdiction.

4. Smt. Bela Goel, daughter of Late Harkishan Das Agarwal, residing at 1, Lord Sinha Road, Kolkata-700 071, within the aforesaid jurisdiction.
5. Shri Nirmal Dhanania, son of Late Harkishan Das Agarwal, residing at 1, Lord Sinha Road, Kolkata-700 071, within the aforesaid jurisdiction.
6. Smt. Neelu Poddar, daughter of Late Harkishan Das Agarwal, residing at 1, Lord Sinha Road, Kolkata-700 071, within the aforesaid jurisdiction.

... Judgment Debtors.

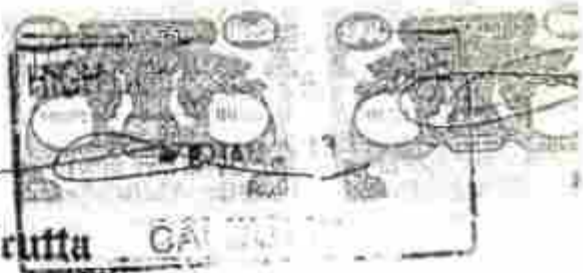
*Manita Chatterjee*



+

ಅಧ್ಯಯನ ಇಲಾಖೆ  
ಕರ್ನಾಟಕ ಸರ್ಕಾರ  
18 JAN 2018

44



In the High Court at Calcutta  
Ordinary Original Civil  
Special Jurisdiction

EC 127/2011

Income Tax Reference No.

CS 619/1985

of 19

Versus Pawan Properties

vs

Smt Narayani Devi Dhanania & Co.

Present :

The Hon'ble Mr. Justice I. P. Mukerji  
and

The Hon'ble Mr. Justice

Appearance :

For Applicant

For Respondent

Heard on:

Judgment on: 21.12.12



Mamita Chatterjee

P-1  
B/B



ADMITTED BY THE  
REGISTRAR GENERAL  
18 JAN 1973

IN THE HIGH COURT AT CALCUTTA  
Ordinary Original Civil Jurisdiction

E.C. 127 of 2011  
C.S. No. 619 of 1985

In the matter of :

PAWAN PROPERTIES

-Vs.-

..... Petitioner

SMT. NARAYANI DEVI DHANANIA & ORS.

..... Judgment Debtors

E.C. 128 of 2011  
C.S. No. 619 of 1985

In the matter of :

PAWAN PROPERTIES

-Vs.-

..... Petitioner

RAJ KUMAR DHANANIA & ORS.

..... Judgment Debtors

For the Petitioner : Mr. P.S. Sengupta, Advocate with  
Mr. Sabyasachi Choudhury  
Ms. Sreetama Manna, Advocates.

For the Judgment Debtor  
Of E.C. 127 of 2011 : Mr. Pradip Kr. Ghosh, Senior Advocate with  
Mr. Pramit Ray,

For the Judgment Debtor  
Of E.C. 128 of 2011 : Mr. Raja Basu Choudhury, Advocate

*Mounita Chatterjee*

*S.B.*



REGISTERED PROFESSIONAL ENGINEER  
STATE OF CALIFORNIA  
10 JAN 2019

Heard on : 04.10.12, 10.10.12, 11.10.12 & 17.10.12

Judgment on : 21<sup>st</sup> December, 2012

I.P. MUKERJI, J.

Two execution applications were heard by me. One was E.C. 127 of 2011, which was against the heirs of Dina Nath Agarwal who at one point of time was the third defendant. The other application is E.C. 128 of 2011 against the heirs of Harikishan Das Agarwala who at one point of time was the fourth defendant in the suit. Each of these execution applications prayed of an order for transfer of a 1/4<sup>th</sup> share in the property numbered as premises no. 46A and 46B, Shakespeare Sarani, Kolkata - 700 017 in favour of the plaintiff decree-holder. Mr. Pradip Kumar Ghosh, learned Senior Advocate represented the heirs of Harikishan Das Agarwala, while Mr. Raja Basu Choudhury represented the heirs of Dina Nath Agarwal. Each of the above applications was opposed by the above respective heirs. But these two applications can be disposed of by this common judgment.

The genesis of the dispute between the parties was an agreement dated 13<sup>th</sup> October, 1982 between the plaintiff decree-holder and inter alia, Dina Nath Agarwal and Harikishan Das Agarwala for development of the above property which was of substantial area and measured more than two bighas. In a suit between the parties to the agreement and or their heirs being C.S. No. 619 of 1985, the parties to the suit at that point of time, on 25<sup>th</sup> November, 2003 executed a Terms of Settlement. In Clause 4 of these terms it was recorded that the third and fourth defendants had 1/4<sup>th</sup> share each. Clause 5 provided that in consideration of the plaintiff decree-holder paying the sums mentioned in Schedule X to the agreement these defendants would transfer their interest in the property to them. Part-II of Schedule X, inter alia, provided that each of the above two defendants would be paid Rs.40 lacs. The last sentence of Clause 5 stated that cheques for the said amount had been handed over to the defendants. The total consideration as mentioned in Part - I of the Schedule was 80 lacs to be paid to each of the said defendants. The above 40 lacs was to be paid at the time of



*Trishita Chatterjee*

*P.B.  
A.P.*



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AT THE ADDY  
15 JAN 2013



signing of the terms, which undisputedly was paid and the balance was payable immediately upon passing of the decree as provided in Part - III of the Terms of Settlement. Therefore, the total monetary consideration receivable by either of them was Rs. 85 lacs.

Moreover, each of these defendants would be provided a constructed area of 4000 sq. ft. super built up along with three car parking spaces in the above property. I reproduce Clause 8 and 9 and 1(e) of Part - I:

8. Mrs. Moumita Chatterjee, Advocate is appointed Receiver over and in respect of the undivided share of the consenting defendants without security and without remuneration for the purpose of executing the deeds of conveyances in favour of the plaintiff or its nominee or nominees upon the plaintiff or its nominee or nominees making payment of the entire purchase consideration to the consenting defendants as mentioned in Schedule "X" and the Receiver shall also be entitled to admit execution and present such deed of conveyance or deeds of conveyances for registration before the appropriate registration authority.

9. For the sake of clarity, it is recorded that by reason of the aforesaid arrangements the plaintiff would now be entitled, as owner of the undivided 26/ 33th share of the said property, to proceed with the development of the said premises in the manner referred to in the said Development Agreement dated 13<sup>th</sup> October, 1982 and deal with all authorities concerned and finally sell transfer and/or deal with the constructed area attributable to the said undivided share under the said development agreement which has vested in the plaintiff.

1 (e). The share of the Defendant no. 3 and 4 in the suit property being 1/4<sup>th</sup> share each at and for an agreed consideration of Rs.85.00 lacs each and constructed area of 4000 sq. ft. super built up along with three car parking space to each of them. The earmarking of the area shall be done by Syam Sundar Nangalia and Raj Kumar Dhanania mutually"



Moumita Chatterjee



MINISTRY OF AGRICULTURE,  
FISHERIES AND FORESTRY  
18 JAN 2013

signing of the terms, which undisputedly was paid and the balance was payable immediately upon passing of the decree as provided in Part - III of the Terms of Settlement. Therefore, the total monetary consideration receivable by either of them was Rs. 85 lacs.

Moreover, each of these defendants would be provided a constructed area of 4000 sq. ft. super built up along with three car parking spaces in the above property. I reproduce Clause 8 and 9 and 1(e) of Part - I:

8. Mrs. Moumita Chatterjee, Advocate is appointed Receiver over and in respect of the undivided share of the consenting defendants without security and without remuneration for the purpose of executing the deeds of conveyances in favour of the plaintiff or its nominee or nominees upon the plaintiff or its nominee or nominees making payment of the entire purchase consideration to the consenting defendants as mentioned in Schedule "X" and the Receiver shall also be entitled to admit execution and present such deed of conveyance or deeds of conveyances for registration before the appropriate registration authority.

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1 (e). The share of the Defendant no. 3 and 4 in the suit property being 1/4<sup>th</sup> share each at and for an agreed consideration of Rs.85.00 lacs each and constructed area of 4000 sq. ft. super built up along with three car parking space to each of them. The earmarking of the area shall be done by Syam Sundar Nangalia and Raj Kumar Dhanania mutually"



Moumita Chatterjee

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DESA PANGKALAN KEMUNING  
18 JAN 2013

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Clauses 8 and 9 of the Terms and 1 (e) of Schedule X are most important and have been given different interpretations by the learned counsel appearing for the decree-holder and the judgment-debtors. Therefore, it is imperative that this Court makes a proper interpretation of the above clauses for a correct resolution of the disputes between the parties. It is also important to note that according to Clause 10 of the terms possession of the vacant portion of the premises as recorded by an earlier receiver had been made over to the plaintiff decree-holder. This possession is now disputed by the plaintiff decree-holder but this dispute does not lie at the heart of the controversy.

An application was made for recording the above compromise as a decree of this Court being G.A. No. 4027 of 2003 connected with C.S. 219 of 1985. This application was resisted by some defendants. The record shows that the fourth defendant had also supported these defendants. These parties objected to a decree being passed. However, the application was allowed and a decree in terms of the settlement was passed on 29<sup>th</sup> July, 2004 by Pradip Kumar Biswas J.

Now, it is important to examine the grounds on which the execution of the decree as claimed by the plaintiff is being resisted by the heirs of the above defendants. Their stand is that unless the above built up area together with the car parking space is handed over to them, they would not execute the conveyance. According to them that is the meaning that it is to be attributed to Clauses 8 and 9 of the terms of settlement read with Clause 1 (e) of the Schedule.

Mr. Pradip Kr. Ghosh, learned Senior Advocate for the judgment-debtor cited the case of *White vs. Elmdene Estates Ltd.* reported in 1959 2 ALL. E.R. Pg. 605. He says that the word "payment" has a wide meaning and also includes payment in kind.

Clause 8 stipulates that upon making payment of the entire consideration the receiver would execute the conveyance in favour of the plaintiff. The entire consideration has been defined in Part-I of Schedule X and in Clause 1(e) of Schedule X as 85 lacs and the constructed area. Therefore, although the plaintiff has paid Rs. 85 lacs, it could not be said that they have paid the entirety of the said



Prasanta Chattopadhyay

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REGISTRAR OF ASSURANCES  
GOVERNMENT OF INDIA  
10 JAN 2019

consideration. They would only have paid the whole consideration if they constructed and handed over the above constructed area. Mr. Ghosh submitted that the above compromise decree was not unilateral in its terms but contained reciprocal promises. The obligation of the judgment-debtors to execute the conveyance would arise after making over to them of the constructed area. So unless the prior obligation was fulfilled by the plaintiff there was no obligation on the part of the defendants to execute the conveyance. He relied on the case of *Jai Narain Ram Lundia Vs. Kedar Nath Khetan and others* reported in AIR 1956 SC 359. He also added that the Court had full powers to investigate the fulfilment of reciprocal promises at the execution stage under Section 47 of the Code of Civil Procedure.

Mr. P. S. Sengupta, learned Senior Advocate for the decree-holder interpreted the terms of the compromise as meaning that after payment of Rs. 85 lacs the judgment-debtors would have to execute the conveyance. Only, thereafter could the plaintiff decree-holder make construction and hand over possession of the constructed portion within three years of sanction of the plan as provided in Clause 4 of the above development agreement. He cited the building rules and the attending forms and schedules relating to Kolkata Municipal Corporation Building Rules, 2009. He relied mainly the Rules and Schedule 1. In an application for sanction of a plan it has to be specifically mentioned under what capacity an applicant was applying. Such an application for construction can only be signed by the owner. Therefore, it is logical that the conveyance is executed in favour of the plaintiff. The plaintiff becomes the owner and takes steps for making construction in terms of the agreement. Only then can the judgment-debtors claim the built up area within three years of sanction of the said plan.

#### FINDINGS:

In *White vs. Elmdene Estates Ltd.* decided by the Court of Appeal of England and Wales and reported in (1959) 2 ALLER 605, the tenants sold their property at an undervalue to the landlord's nominee in consideration of the landlord granting tenancy to them. Was the difference in value to be considered as the premium paid by the tenants under the relevant Rent Act was the question before the Court: In



*Monita Chatterjee*

*P.B.  
A.D.*



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REGISTRAR OF COMPANIES  
MAHARASHTRA  
16 JAN 2013



that context Lord Evershed M.R. held that it was and went on to hold that payment could be in cash or in kind. I read the relevant part from the judgment:

"I therefore, conclude that, where a specific sum is to be deducted from a known or assumed sale price as a condition of the grant of a tenancy, that is a "pecuniary consideration" within the scope of the definition, and amounts, therefore, to a premium. If I am right, it must follow that the exaction of such a deduction must amount to a "payment"; and I find, indeed, no difficulty in so concluding: for the word "payment" in itself is one which, in an appropriate context, may cover many ways of discharging obligations. It may ever (as is well known, although it does not arise in this case) include a discharge, not by money payment at all, but by what is called "payment in kind". It follows, therefore, that if, in the present case, the defendant company had required, as a condition of the grant of a tenancy, that the plaintiff should sell to the defendant company his own house, 174, The Heights, for ....500 less than the known or assured value of ....2,300, that would have been the requiring of the payment of a premium, within the scope of s. 2 (1) of the Act of 1949."

Now, under the terms of settlement the consideration, as I have said before was payment by the plaintiff to each of the third and fourth defendants, Rs. 85 lacs together with making over a constructed area of 4000 Sq. ft.(super built up) and three car parking spaces. On the basis of the above judgment of the Court of Appeal I have no hesitation in holding that making over of the constructed area could be termed as "payments".

Now, one has to see how far this takes the judgment-debtors.

Clause 8 of the agreement states that upon payment of the "entire purchase consideration" ..... "as mentioned in Schedule X", the receiver would execute the conveyance. If the deed of conveyance had stopped there, I would have been at once with Mr. Ghosh that upon payment of cash and making over of the constructed part, the receiver would execute the conveyance. But Clause 9



Tanita Chatterjee

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expresses a different intention. It stipulates that the plaintiff would "now be entitled as owner" to proceed with "development of the said premises". Therefore, it is plain from reading of these two Clauses that the plaintiff could proceed to make construction after execution of conveyance in their favour and that the consideration mentioned in Clause B is only the monetary consideration. Therefore, upon receipt of the monetary consideration the receiver would execute the conveyance and the plaintiff would proceed towards development. If Mr. Ghosh's argument was true there would not have been any scope for the insertion of paragraph 9.

In view of my above interpretation of the terms of settlement the judgment of the Supreme Court in the case of Jai Narain Ram Lundia Vs. Kedar Nath Khetan and others reported in AIR 1956 SC 359 falls into place. Bose J. delivering the judgment for the Supreme Court opined paragraph 18 and 19:

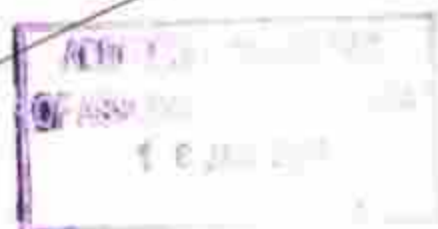
"18. ....When a decree imposes obligations on both sides which are so conditioned that performance by one is conditional on performance by the other execution will not be ordered unless the party seeking execution not only offers to perform his side, but, when objection is raised, satisfies the executing Court that he is in a position to do so. Any other rule would have the effect of varying the conditions of the decree: a thing that an executing Court cannot do.

There may of course be decrees where the obligations imposed on each side are distinct and severable and in such a case each party might well be left to its own execution. But when the obligations are reciprocal and are interlinked so that they cannot be separated, any attempt to enforce performance unilaterally would be to defeat the directions in the decree and to go behind them which, of course, an executing Court cannot do. The only question therefore is whether the decree in the present case is of this nature. WE are clear that it is.

19. .... This is not a case of two independent and severable directions in the same decree but of one set of reciprocal conditions indissolubly linked together so that

*Tramita Chatterjee*

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they cannot exist without each other. The fact that it is a decree for specific performance where the decree itself cannot be given unless the side seeking performance is ready and willing to perform his side of the bargain 'and is in a position to do so', only strengthens the conclusion that was the meaning and intendment of the language used.

But the principle on which we are founding is not confined to cases of specific performance. It will apply whenever a decree is so conditioned that the right of one party to seek performance from the other is conditional on his readiness and 'ability' to perform his own obligations. ....

The ratio of the judgment was followed by the judgment in the case of *Chen Shen Ling vs. Nand Kishore Jhajharia* reported in AIR 1972 SC 726.

The terms of settlement spell out the order in which the obligations have to be performed. The plaintiff has made payment of Rs. 85 lacs to each of the said predecessors of the judgment-debtors. Hence, now in terms of Clause 8 and 9 of the terms of settlement, it is for the heirs of those defendants, i.e. the present judgment-debtors to allow the Receiver to execute and register the conveyance. Thereafter, it is the obligation of the plaintiff to complete the construction of the commercial complex within three years from the date of sanction of the plan by the Kolkata Municipal Corporation.

I observe with considerable regret that the judgment-debtors stood in the way of performance of the terms of the consent decree.

Therefore, each of the execution applications is allowed by passing orders in terms of prayers (i), (ii) and (iii) of the Tabular Statement. The judgment-debtor no. 2 is to deliver possession of the property mentioned in the schedule to the tabular statements by 31<sup>st</sup> March, 2013 to the plaintiff decree holder failing which the Officer-in-Charge of the local police station will evict the judgment-debtor no. 2 from the premises.

Mounita Chatterjee

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I direct the plaintiff to obtain sanction of the building plan from the Kolkata Municipal Corporation and direct the Kolkata Municipal Corporation to accord sanction to the plan prepared by the plaintiff in accordance with law within three months of its presentation with them. I further direct the plaintiff to complete construction within three years of sanction of the plan. If there is failure on the part of the plaintiff to obtain sanction of the building plan or to deliver possession of the constructed area in accordance with the compromise decree within three years of sanction of such plan, the plaintiff will be deemed to be in breach of their reciprocal obligation as held in the case of *Jai Narain Ram Lundia Vs. Kedar Nath Khetan and others* reported in AIR 1956 SC 359 (Supra) the ratio of which was followed in the case of *Chen Shen Ling vs. Nand Kishore Jhajharia* reported in AIR 1972 SC 726 (Supra). The judgment-debtors will then be entitled to restitution, in accordance with law.

Urgent certified photocopy of this judgment/order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

CERTIFIED TO BE A TRUE COPY  
Prabir K. Das 11.01.13.  
Authorised under Section 76 of  
the Indian Evidence Act, 1872  
(Act-1 of 1872)

sdf Indira P. Mukerji, J.  
(G. P. Mukerji, J.)

Later:

Considering the circumstances, the Receiver will stay her hands till 15th January, 2013, to enable the judgment debtors to approach the Appeal Court.

Urgent Xerox certified copy.

sdf Indira P. Mukerji, J.  
(G. P. Mukerji, J.)

Prabir K. Das  
11.01.13  
Sambal Bhattacharyya

CERTIFIED TO BE A TRUE COPY  
Prabir K. Das 11.01.13  
Authorised under Section 76 of  
the Indian Evidence Act, 1872  
(Act-1 of 1872)

Neerita Chatterjee



ADITYA K. S. REGISTRAR  
REGISTRAR OF ASSURANCES  
1 0 JAN 2013



[4 of 6]

In the High Court at Calcutta  
Ordinary Original Civil Case  
Special Jurisdiction

EC 127/2011  
CS 619/1985

- i) Date of application on for Copy 21.12.12
- ii) Date of notifying the charges. 10.01.13
- iii) Date of putting in the charge. 10.01.13
- iv) Date on which the copy is ready for delivery. 11.01.13
- v) Date of Making over the copy to the applicant. 11.01.13

I. F. Reference No.

of 19

Pawan Properties

Versus

Smt Narayani Devi  
Dhanoria 207

Plaintiff  
Superintendent,  
Copyists' Department  
High Court, O.S.

*Rayminder*  
11/1/13

Judgment dt: 21.12.12

K



Judgment delivered by the Hon'ble Mr.  
Justice I. P. Mukherjee  
and the Hon'ble Mr. Justice  
2010

ADDITIONAL REGISTRAR  
OF THE HIGH COURT OF CALCUTTA  
Filed  
18 JAN 2013

8<sup>th</sup> day of Jan '13

Assistant Registrar

AC-10,000




*Manita Chatterjee*

Singhvi & Co.

1/2  
2/1/13

**Government of West Bengal**  
**Department of Finance (Revenue) , Directorate of Registration and Stamp Revenue**  
**Office of the A.R.A. - II KOLKATA, District- Kolkata**  
**Signature / LTI Sheet of Serial No. 00603 / 2013, Deed No. (Book - I , 00669/2013)**

**I . Signature of the Presentant**

Name of the Presentant	Photo	Finger Print	Signature with date
Shyam Sundar Nangalia 32 C, New Road, Block - B, 3rd Floor, Kol, Thana:-Allpore, P.O. :- ,District:-South 24-Parganas, WEST BENGAL, India, Pin :-700027	 18/01/2013	 LTI 18/01/2013	 18/1/13



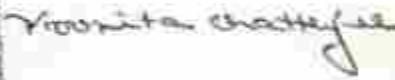
**II . Signature of the person(s) admitting the Execution at Office.**

Sl No.	Admission of Execution By	Status	Photo	Finger Print	Signature
1	Shyam Sundar Nangalia Address -32 C, New Road, Block - B, 3rd Floor, Kol, Thana:-Allpore, P.O. :- ,District:-South 24-Parganas, WEST BENGAL, India, Pin :-700027	Self	 18/01/2013	 LTI 18/01/2013	

**Name of Identifier of above Person(s)**

**Signature of Identifier with Date**

Dulal Ghosh  
High Court Cal, P.O. :- ,District:-Kolkata, WEST  
BENGAL, India,

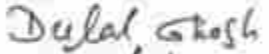
2	Moumita Chatterjee Address -32/1 A, Gobinda Ghosal Lane, Kol, Thana:-Bhawanipore, P.O. :- ,District:-South 24-Parganas, WEST BENGAL, India, Pin :-700025	Self	 18/01/2013	 LTI 18/01/2013	
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**Name of Identifier of above Person(s)**

**Signature of Identifier with Date**

Dulal Ghosh  
Shyampur, P.O. :- ,District:-Howrah, WEST BENGAL  
India, Pin :-711314



  
15/1/2013

  
(Dulal chandra Saha)

**ADDL. REGISTRAR OF ASSURANCES-II**  
Office of the A.R.A. - II KOLKATA



Government Of West Bengal  
Office Of the A.R.A. - II KOLKATA  
District:-Kolkata

Endorsement For Deed Number : I - 00669 of 2013  
(Serial No. 00603 of 2013)

On 18/01/2013

**Certificate of Admissibility(Rule 43,W.B. Registration Rules 1962)**

Admissible under rule.21 of West Bengal Registration Rule, 1962 duly stamped under schedule 1A.  
Article number : 23, 5 of Indian Stamp Act 1899.

**Registration Fees paid Online using Government Receipt Portal System (GRIPS),  
Finance Department, Govt. of WB**

Registration Fees Rs. 17,49,256/- paid online on 16/01/2013 3:51AM with Govt. Ref. No.  
192012130000962021 on 16/01/2013 3:49PM, Bank: AXIS Bank, Bank Ref. No. 8226659 on  
16/01/2013 3:51AM, Head of Account: 0030-03-104-001-16, Query No:1902L000034931/2012

**Certificate of Market Value(WB PUVI rules of 2001)**

Certified that the market value of this property which is the subject matter of the deed has been  
assessed at Rs. -15,90,22,119/-

Certified that the required stamp duty of this document is Rs. - 11131568 /- and the Stamp duty paid as:  
Impresive Rs.- 100/-

**Stamp Duty paid Online using Government Receipt Portal System (GRIPS), Finance  
Department, Govt. of WB**

Stamp duty Rs. 1,11,31,568/- paid online on 16/01/2013 3:51AM with Govt. Ref. No.  
192012130000962021 on 16/01/2013 3:49PM, Bank: AXIS Bank, Bank Ref. No. 8226659 on  
16/01/2013 3:51AM, Head of Account: 0030-02-103-003-02, Query No:1902L000034931/2012

**Presentation(Under Section 52 & Rule 22A(3) 46(1),W.B. Registration Rules,1962)**

Presented for registration at 13.45 hrs on :18/01/2013, at the Office of the A.R.A. - II KOLKATA by Mr  
Shyam Sundar Nangalia ,Claimant.

**Admission of Execution(Under Section 58,W.B.Registration Rules,1962)**

Execution is admitted on 18/01/2013 by

1. Mr Shyam Sundar Nangalia  
Partner, M/s. Pawan Properties, 3rd Floor, 10/1 D, Lal bazar Street, Kol, Thana:-Hare Street, P.O. :-  
District-Kolkata, WEST BENGAL, India, Pin :-700001.  
By Profession : Business  
Identified By Dulal Ghosh, son of Late K C Ghosh High Court Cal, P.O. :- District-Kolkata, WEST  
BENGAL, India, By Caste: Hindu, By Profession: Law Clerk.
2. Mrs Moumita Chatterjee, wife of Sd Kaushik Chatterjee , 32/1 A, Gobinda Ghosal Lane, Kol,  
Thana:-Bhawanipore, P.O. :- District-South 24-Parganas, WEST BENGAL, India, Pin :-700025, By  
Caste Hindu, By Profession : Advocate

(Dulal chandraSaha )  
ADDL. REGISTRAR OF ASSURANCES-II

EndorsementPage 1 of 2

18/01/2013 14:34:00



**Government Of West Bengal**  
**Office Of the A.R.A. - II KOLKATA**  
**District:-Kolkata**

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**Endorsement For Deed Number : I - 00669 of 2013**

**(Serial No. 00603 of 2013)**

---

Identified By Dulal Ghosh, son of Late Kartick Ghosh, Shyampur, P.O. :- ,District:-Howrah, WEST BENGAL, India, Pin :-711314, By Caste: Hindu, By Profession: Business.

( Dulal chandra Saha )  
ADDL. REGISTRAR OF ASSURANCES-II



( Dulal chandra Saha )  
ADDL. REGISTRAR OF ASSURANCES-II

Govt. of West Bengal  
Directorate of Registration & Stamp Revenue  
eChallan

GRN: 19-201213-000096202-1

Payment Mode Online Payment

GRN Date: 16/01/2013 15:49:14

Bank: AXIS Bank

BRN: 8226659

BRN Date: 16/01/2013 03:51:49

DEPOSITOR'S DETAILS

Id No. : 1902L000034931/1/2012

[Query No./Query Year]

Name : Pawan Properties

Contact No. : 40636102

Mobile No. : +91 9830091899

E-mail : ssn@koll.in

Address : 10 B R B BASU ROAD,KOLKATA-700 001

Applicant Name : Arun Gabbar

Office Name : A. R. A. - II KOLKATA, Kolkata

Office Address :

Status of Depositor : Others

Purpose of payment / Remarks : Requisition Form Filled in Registration Office

PAYMENT DETAILS

Sl. No.	Identification No.	Head of A/C Description	Head of A/C	Amount[ ₹ ]
1	1902L000034931/1/2012	Property Registration- Stamp duty	0020-02-103-003-02	1113156
2	1902L000034931/1/2012	Property Registration- Registration Fee	0030-03-104-001-16	174929
<b>Total</b>				<b>12880824</b>

In Words : Rupees One Crore Twenty Eight Lakh Eighty Thousand Eight Hundred Twenty Four only




Handwritten signature or mark.

RECEIVED  
OFFICE OF THE  
SECRETARY  
GOVERNMENT OF MADHYA PRADESH  
Bhopal

Certificate of Registration under section 60 and Rule 69.

Registered in Book - I  
CD Volume number 3  
Page from 2487 to 2521  
being No 00669 for the year 2013.



  
(Dulal chandra Saha) 19-January-2013  
ADDL. REGISTRAR OF ASSURANCES-II  
Office of the A.R.A. - II KOLKATA  
West Bengal

62/W.P.