

IN THE COURT OF THE LD. 3RD. CIVIL JUDGE (JR, DIW.)
AT SEALDAH.

Title Suit No. 293 of 2015.

- 1) Sri Sanjay Dey
 - 2) Sri Sanjay Dey ^{Sanjay}
- both son of late Sankar Dey,
residing at 76F, Belaram Dey Street,
P. S. Girish Park,
Kolkata-700006.

.. Plaintiffs.

-Versus-

- 1) Amit Sarde,
son of Jugal Kishore Sarde,
at 12/1, Nelli Sengupte Sarani,
P.O. & P.S. New Market,
Kolkata-700087.
- 2) M/s. Marvellous Nirman Private Limited,
- 3) M/s. Paramount Nirman Private Limited,
- 4) M/s. Pillar Realtors Private Limited,
- 5) M/s. Triveni Promoters Private Limited,
- 6) Arunoday Suppliers Private Limited,
- 7) Prestige Deal Comm Private Limited,
- 8) Forture Suppliers Private Limited,
- 9) Gravity Trade Comm Private Limited,

contd.



- 10) Dhanishta Apartments Private Limited,
 11) Kritartha Real Estate Private Limited,
 Nos.2 to 5 all having its Registered Office
 at 11, Crooked Lane, Police Station &
 Here Street, Kolkata-700069 and Nos.6 to 9
 all having its Registered Office at
 23A, Netaji Subhas Road, Kolkata-700001
 and Nos.10 and 11 having their/its
 Registered Office at 7, Chitteranjan
 Avenue, Kolkata-700072. All being
 Nos.2 to 11 represented by their
 representative authority Mr. Amit Sarde,
 son of Jugal Kishore Sarde, residing at
 12/1, Nellie Sengupta Sarani, Post
 Office and Police Station New Market,
 Kolkata-700087.

.. Defendants.

Suit for declaration and recovery of possession
Valued at Rs.100/- tentatively Valued at Rs.50/-
for declaration, Rs.25/- for khas possession
and Rs.25/- for injunction.

The Plaintiffs state as follows :-

- 1) That one Senkar Dey, since deceased was the owner of a
 piece and parcel of Sali Land measuring about 5 Cottahs
 0 Chittack 8 Square feet of land lying and situated at

contd.

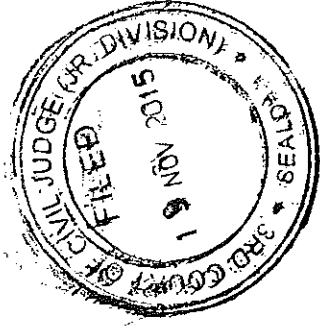


Mouza Salua, R.S.Dag No. 525, under Khatian No. 249 of 2006, District 24 Parganas (North), old P.S. Rajarhat at present Dum Dum Airport under Rajarhat Gopalpur Municipality which is the jurisdiction of this Ld. Court, hereinafter referred to as the "said lands" and fully described in the schedule herein below by way of purchase dated 15.12.1988 which was registered in the Office of D. K. Barasat and was recorded in Book no. 1, Volume no. 246, Pages 84 to 99, Being no. 3662 for the year 1988, purchased from Sri Swapan Deb and Belo Das against the valuable consideration thereof and possessed the said land by the said Sankar Dey till his death, as owner of the said land.

2) That the said Sankar Dey died on 5.4.2006 leaving behind surviving his wife namely Baby Dey and two sons namely Sanjay Dey and Sanjeev Dey as the only legal heirs of Sankar Dey and accordingly the said land vested upon the aforesaid legal heirs of late Sankar Dey by way of inheritance.

3) That Smt. Baby Dey, wife of late Sankar Dey visited the aforesaid land, after the demise of her husband namely Sankar Dey on or about 3.3.2010 and found that the said land has been encroached ^{and} her ~~encircled~~/covered by the tin wall enjoying with other's land without the consent of the plaintiffs and/or their predecessor in interest. The plaintiffs' mother namely Baby Dey enquired on the spot from the local people in that regard but none of

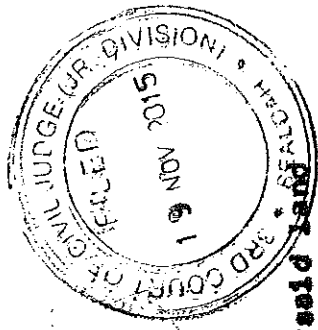
contd.



the local people able to furnish the satisfactory answer regarding the said encroachment of the Land in Deq no. 525 & 526 at Mouze Salua, District North 24 Parganas under P.S. Airport and finding no other alternative the said Baby Dey lodged a written complaint before the Dum Dum Airport Police Station dated 4.3.2010 by stating the said facts for immediate action in order to get the said property return back to the legal heirs of late Sanker Dey but the Police authorities did not take any steps respecting the above matter till the death of Baby Dey.

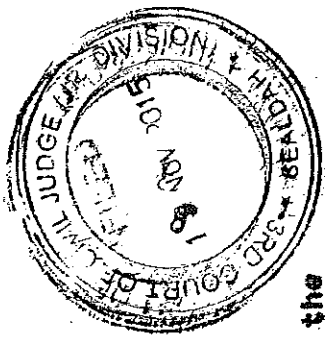
4. That the said Baby Dey, wife of late Sanker Dey died on 17.6.2012 and after the death of Baby Dey her sons i.e. the plaintiffs personally visited and investigated the said land on 26.4.2015 and found a boundary wall with a big size Gate keeping under lock and key where the land of the plaintiffs is situated and as such the plaintiffs could not entered and/or visited the said land. The plaintiffs also found that a big size of sign board affixed in the boundary wall of the said land displaying the name of the Project "Silver Oak" having found no other alternative the plaintiffs lodged a written complain to the Officer-in-Charge, Dum Dum Airport Police Station for proper remedy. But the said Police Authority failed to give any assistance for appropriate remedy regarding the possession of the said land.

contd.



5. That as the defendants are occupying the aforesaid land which is mentioned of the Schedule herein below without any consent of the plaintiffs, so the defendants are guilty for trespassing the Schedule Land in question.
6. That the defendant no.1 as sole and on behalf of the other defendants i.e. defendant nos.2 to 11 represented by doing several business in the Schedule mentioned Land with other lands where the plaintiffs' land is situated without any consent of the plaintiffs.
7. That the such occupation of the defendants in the land as aforesaid is illegal, void and arbitrary. And in the circumstances the defendants are liable to be evicted by the Court of Law.
8. That thereafter the plaintiffs served a notice to quit, vacate and deliver up the said land to the plaintiffs holding therein as the trespasser by Speed Post to Amit Sarda, Proprietor of Silver Oak Estate, 5th Floor, Room no.503, Tobala House, 1, Old Court House Corner, Kolkata-700001 through Bhrendra Kumar Ghosh, Advocate dated 10.7.2015. The defendant no.1 i.e. Amit Sarda received the said notice and replied through M/s. Victor Moses & Co., Solicitors, Advocates, dated 10.8.2015 and also filed an application under Section 148A of the Civil Procedure Code against the plaintiffs before the Ld. Court.

contd.



9. That inspite of service of the said notice the defendant no.1, failed and neglected to quit, vacate and deliver up of the Schedule mentioned Land to the plaintiffs and are still illegally occupying the said Schedule mentioned land illegally and forcibly as trespasser thereof. In the circumstances, the plaintiffs have no other way but to file the instant suit against the defendants for evicting them from the said land.
10. That the plaintiffs are entitle to get damage, against the defendants for their wrongful possession of the schedule mentioned land as and when the Ld. Court impose the damage cost and the plaintiffs are given liberty to pay the Court fee on that account.
11. That the plaintiffs therefore pray for order of injunction by an order of temporary injunction against the defendants from transferring and/or sale out the constructed building in the Schedule mentioned land and/or make any further construction in the said Schedule land where the plaintiffs land is situated, then the valuable right of the plaintiffs will be jeopardised and object of the suit will become infructuous.
12. That the cause of action of this suit arose on 4.3.2010 and 7.5.2015 when the plaintiffs got knowledge for illegal possession of the defendants and also on 10.7.2015 when the Advocate's notice was sent to the defendant no.1 and failed to vacate the suit land inspite of demand and the

contd.



said cause of action is still continuing day to day at Mouza Salua, Bablatale in Dag no. 525, 525 under Khatian no. 249, 250, J.L.No. 3, R.S. 109, P.S. Dum Dum Airport, District 24 Parganas (North) within the jurisdiction of this Ld. Court.

13.

That for the purpose of the jurisdiction and Court fees the suit is valued at Rs. 100/- (tentatively valued at Rs. 50/- for declaration, Rs. 25/- for khas possession and Rs. 25/- for injunction) and the Court fees thereof are paid accordingly. The plaintiffs undertake to pay additional Court fees, as and when ordered.

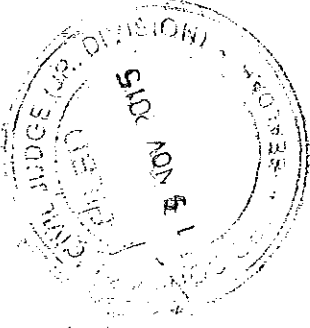
14.

The plaintiffs craves leave of the Ld. Court to file a separate suit against the defendants for damage towards illegal possession of the land in question of the plaintiffs.

The Plaintiffs, therefore, pray
for :-

(a) declaration that the plaintiffs are the joint owners of a land measuring about 5 Cottahs 0 Chittacks 8 square feet of land at Mouza Salua, R.S. Dag no. 525, Khatian no. 249 and Dag No. 526, Khatian no. 250, J.L.No. 3, P.S. Dum Dum Airport, District 24 Parganas (North) under Rajarhat Gopalpur Municipality)

contd.



8.

- (b) Declaration that the defendants are the rank trespassers in the Schedule below mentioned property ;
- (c) Decree for recovery of possession of the land mentioned in the Schedule by evicting the defendants and their men and agents if any therefrom;
- (d) Injunction against the defendants not to transfer any portion of the property which has been erected in the Schedule land thereof ;
- (e) Injunction not to make any further construction in the Schedule mentioned land ;
- (f) Mandatory injunction ;
- (g) Commission ;
- (h) Receiver ;
- (i) Cost of the suit ;
- (j) And such other and further relief or reliefs as the Id. Court may deem fit and proper.

contd.



SCHEDULE ABOVE REFERRED TO :

ALL THAT Land measuring about 5 Cottahs 0 Chittack and 8 square feet lying and situated at Mouza Salua, R.S. Dag no. 525, Khatian no. 249 and Dag no. 526, Khatian no. 250, J.L.No. 3, P.S. Dum Dum Airport in the District of 24 Perganas (North) under Rejerhat Gopalpur Municipality butted and bounded as follows :-

On the North : Road of P.W.D. ;

On the South : Land in Dag no. 523 ;

On the East : Rest land of Dag no. 525 and 526, owner Swepan Deb and Smt. Bela Das;

On the West : Land of Sri Topan Kumar Chatterjee in Dag no. 525.

V E R I F I C A T I O N

I, Sri Sanjay Dey, the Plaintiff no. 1, do hereby declare that the statements made in paragraph 1 to 13 and the Schedule of the foregoing Plaint are true to my knowledge and the rest thereof are my submission before this Ld. Court. I sign this Verification on this the 18th day of ^{November} ~~October~~, 2015 at the Court Premises, Sealdah.

AFFIDAVIT ..

19 NOV 2015

A F F I D A V I T

I, Sri Sanjay Dey, son of late Sankar Dey, aged about 32 years, by faith Hindu, by occupation business, residing at premises No.76F, Balaram Dey Street, P.S. Girish Park, Kolkata-700006, do hereby solemnly affirm and say as follows :-

1. That I am Plaintiff no.1 and am fully conversant with the facts and circumstances of the suit and am competent to swear this affidavit for self and on behalf of the Plaintiff no.2 as well.

This is true to my knowledge. | to 13

2. That the statements made in paragraph and the Schedule of the foregoing Plaintiff are true to my knowledge and the rest thereof are my submission before this Ld. Court.

Identified by me,

Advocate.

Deponent.