

IN THE COURT OF LEARNED 3RD CIVIL JUDGE
(JUNIOR DIVISION) AT SEALDAH

TITLE SUIT NO. 293 OF 2015

Pradom
29/11/2017

SANJAY DEY & ANR.

-VS-

AMIT SARDA & ORS.

WRITTEN STATEMENT filed by the defendants abovenamed.

These defendants state as follows:-

1. The instant suit is not maintainable in law as framed and/or otherwise and/or at all.
2. The plaintiffs have no cause of action against these defendants nor the plaint discloses any.
3. The plaintiffs have no privity of contract with these defendants.
4. The plaintiffs have sought to mislead this Learned Court by making false and misleading allegation or statement against these defendants.

5. The conduct of the plaintiffs all throughout has been malafide and with ulterior motive and the plaintiffs are trying to abuse the process of Court.
6. The plaintiffs have not come to court with clean hands and therefore are not entitled to get any relief as prayed herein.
7. The suit is barred by the law of limitation.
8. The Court Fees filed by the plaintiffs are not sufficient and ought to be filed correct court fees before the Learned Court.
9. Save and except what are specifically admitted herein all other allegations contained in the plaint are denied and disputed as if they are set out herein and denied in seriatim.
10. Without prejudice to the aforesaid statements and/or contentions and without waiving the same in any manner whatsoever, these defendants have been advised to deal with the allegation contained in the plaint.
11. With reference to paragraphs 1 and 2 of the said plaint, save what are matters of record and save what would appear therefrom these defendants do not admit any of the allegation contained therein and puts the plaintiffs to strict proof thereof.
12. With reference to paragraphs 3 and 4 of the said plaint, save what are matters of record and save what would appear therefrom these defendants deny each and every allegation contained therein and puts

the plaintiffs to strict proof thereof. It is denied that the said land has been encroached and/or encircled /covered by the tin wall enjoying with others land without the consent of the plaintiffs and/or predecessors-in-interest as alleged or at all. These defendants have/had no knowledge regarding the allegations made therein and asked the plaintiffs to strict proof thereof and the rests of the paragraphs are denied. These defendants state that they are in possession and enjoying their land since long back and as such question of entering their boundary wall by the plaintiffs does not arise at all.

13. With reference to paragraphs 5, 6 and 7 of the said plaint, save what are matters of record and save what would appear therefrom these defendants deny each and every allegation contained therein. It is denied that the defendants are guilty for trespassing the schedule land in question without consent of the plaintiffs as alleged or at all. It is further denied that the occupation of the defendants of the land as aforesaid is illegal or void or arbitrary or in the circumstances the defendants are liable to be evicted by the court of law as alleged or at all.

These defendants state that they are the owners in respect of the land in R.S. Dag Nos. 525 and 526. They never encroached any portion of the plaintiffs' land at all. These defendants state that one Ajit Kumar Deb had transferred and conveyed unto and in favour of Usha Rani Ghosh, Sukumar Ghosh, Deb Kumar Ghosh and Prashant Kumar Ghosh by a Bengali Deed of Sale dated 13th May, 1964 registered with the Sub-Registrar, Cossipore, Dum Dum, being Deed No. 3635 for the year 1964 had All That piece and parcel of land containing an area of 45 decimal

lying situate at Mouza - Salua comprised in C.S. Dag No. 464 corresponding to R.S. Dag No. 525 under C.S. Khatian No. 335 corresponding to R.S. Khatian No. 180 and All That piece and parcel of land containing an area of 08 decimal at the same mouza comprised in C.S. Dag No. 463 corresponding to R.S. Dag No. 526 under C.S. Khatian No. 319 corresponding to R.S. Khatian No. 250 more fully and particularly described in the schedule thereunder written.

It appears from the record that after the demise of said Usha Rani Ghosh her heirs and heiress along with heir of Sukumar Ghosh, Dev Kumar Ghosh and Prasanta Ghosh through various deeds disposed of total piece and parcel of land in favour of Marvellous Nirman Private Limited & Ors. in Dag Nos. 525 and 526 who after purchasing the same duly mutated their names before the appropriate authority. Being some of the owners with whom the defendant No. 1 are developing the project. Be it further mentioned that the father of the plaintiff has wrongfully and illegally purchased a land 8.5 decimal from the heirs and heiress of Ajit Kumar Deb by a Deed of Sale dated 9th June, 1988. The defendants state that the said purchase was an erroneous purchase in the eye of law.

The plaintiff must be aware of the fact that on the strength of the aforesaid Deed of Sale dated 9th June, 1988 being No. 3662 for the year 1988, the father of plaintiffs namely Sankar Dey, since deceased made an illegally transferred to Sushil Kumar Chakraborty and Bhawani Prasad Chakraborty in respect of the land being an area of 5 decimal in

Dag No. 525 and 5 decimal in Dag No. 526. By another Deed of Sale dated 13th October, 1993 being No. 8108 for the year 1993 he further again illegally transferred in favour of Ananta Das and Makar Chandra Das in respect of a total piece and parcel of land having an area of 4.13 decimal in the said Dag Nos. 525 and 526.

Therefore, it further appears that the said Sankar Dey father of the plaintiffs, since deceased abovenamed who purportedly purchased land having an area of 7 decimal in R.S. Dag No. 525 an area of 1.5 decimal in R.S. Dag No. 526 by the alleged Deed of Sale dated 9th June, 1988 being No. 3662 for the year 1988 made false and fake transfers of land having an area of 14.13 decimal in two Dags being No. 525 and 526 as claimed by the plaintiffs which was beyond their father alleged purchased land. Under the aforesaid circumstances the plaintiffs do not and cannot possess any land in the aforementioned two dag Nos. as claimed by them and therefore they are not entitled to get any relief in respect of the schedule suit land as allegedly mentioned in the plaint.

14. With reference to paragraphs 8 and 9 of the said plaint, save what are matters of record and save what would appear therefrom these defendants deny each and every allegation contained therein and put the plaintiffs to strict proof thereof. It is true that against the said purported letter dated 10th July, 2015 these defendants duly replied by sending a letter dated 10th August, 2015 through their Solicitors and Advocates. The statements contained in the said letter are true and correct. These defendants deny and dispute the validity of the said purported letter dated 10th July, 2015 as alleged. Since the defendants have not

encroached of the schedule land of the plaintiffs, the question of illegally occupying the schedule suit premises forcibly by these defendants as trespassers do not arise at all.

15. With reference to paragraphs 10 and 11 of the said plaint, these defendants deny that the plaintiffs are entitled to get damage against the defendants in their wrongful possession of the schedule mentioned land as alleged or at all. It is further denied that an order of temporary injunction is required against the defendants from transferring and/or selling out the said constructed building for the schedule mentioned land or to make any further construction of the said schedule land where the plaintiffs' land is situated or the valuable right of the plaintiffs will be jeopardized or object of the suit will become infructuous as alleged or at all.

16. With reference to paragraphs 12 and 13 of the said plaint these defendants deny that the cause of action of the suit arose on or about 4th March, 2010 or 7th May, 2015 or any other date when the plaintiffs got knowledge for illegal possession of the defendants or thereafter on 10th July, 2015 when his Advocate was sent to notice to the defendant No. 1 or the defendant No.1 failed to vacate the said land in spite of demand or the said cause of action will continue day by day at Mouza - Salua, Bablatala in Dag No. 525, under Khatian No. 249, 250, J.L. No. 3, R.S. Dag No. 109, P.S. Dumdum Airport, District : 24-Parganas (North) within the jurisdiction of this Learned Court as alleged or at all. It is denied that the jurisdiction or court fees of the suit is properly valued at Rs.100/- or the plaintiffs paid the appropriate court fees as alleged or at all. These

defendants state that the Learned Court has/had no jurisdiction to entertain the above suit.

17. With reference to paragraphs 14 of the said plaint these defendants state that they have no knowledge for filing a separate suit against the plaintiffs praying for claiming damage towards illegal possession of the land in question of the plaintiffs as alleged. These defendants state that these defendants will be get a summons from the above intending definitely suit, they will file their defence in due course of law.

18. These defendants state that the suit filed by the plaintiffs is not maintainable in law and as such the above suit will be dismissed in limine with cost.

VERIFICATION

I, Amit Sarda, the Defendant No. 1 and the authorized signatory of the defendant Nos. 2 to 11 abovenamed, do hereby declare that the statements made in paragraphs 1 to 16 are true to my knowledge and the rests are my humble submissions before this Learned Court.

I sign this verification on this the day of ,2017
at my Advocate's Chamber.

AFFIDAVIT

I, Amit Sarda son of Sri Jugal Kishore Sardah, aged about years, by faith Hindu, by occupation Business, residing at 117/1, Netaji Subhas Chandra Bose Road, Kolkata - 700 040, do hereby solemnly affirm and state as follows:-

1. That I am the defendant No. 1 and the authorized signatory of the defendant Nos. 2 to 11 abovenamed and as such well acquainted with the facts and circumstances of the instant case and competent to sign, verify and affirm this affidavit.
2. That the statements contained in paragraphs 1 to 16 are true to my knowledge and the rests are my humble submissions before this Learned Court.

Prepared in my office

Deponent

Advocate

Identified by me

Advocate.

LIST OF DOCUMENTS

1. Deeds;
2. Plan;
3. Mutation Certificate;
4. Letter dated 10th August, 2015; and
5. Corresponding letters in between parties.