

OD-7

ORDER SHEET

IA No. GA/87/2021
CS/343/1979

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

SUPERINTENDENCE COMPANY OF INDIA (P) LTD.
-VS-
WESTERN BUILDING CORPORATION

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : October 4, 2021.

[Via video conference]

Appearance:

Mr. Aniruddha Mitra, Adv.

Mr. D. Mitra, Adv.

Mr. Rajdeep Bhattacharya, Adv.

Mr. Sukumar Pal, Adv.

The Court : By an order dated 9th September, 2021, the petitioner had been directed to publish the gist of the prayers in IA No: GA/87/2021 in "Sunday Statesman" and "Bartaman (Sunday Edition)" within two weeks from the date with a specific indication that the applicant is the owner and is in possession of the office flat No.1F, 1st floor and one pantry and toilet between first floor and second floor in the Everest Building at 46C, J. L. Nehru Road, Kolkata-700 071. The direction for advertisement was given so that anyone intending to oppose the petitioner's prayers would have an opportunity to

appear at the time of hearing of the application. The main prayer in the application is for appointment of a Special Officer to execute and register necessary conveyance deed in relation to the concerned office flat at Everest Building in favour of the petitioner namely Ramji Lal Choudhary on behalf of Western Building Corporation as Owner and also on behalf Sri Hiru Bhagwandas Hiranandani as Confirming Party, the outgoing agreement holder and for taking all other necessary steps.

Learned counsel appearing for the petitioner submits that both the advertisements were duly published within the time directed by this Court and that nobody has opposed or objected pursuant to the advertisements. The Learned Counsel appearing for the petitioner submits that the outgoing flat owner of the instant proceeding has not come forward to execute and register deed of conveyance in favour of the petitioner in respect of the concerned office flat even after publication of the notice of the instant proceeding.

As nobody has opposed or objected pursuant to the advertisements, the defendant no.10, who has changed its name from Everest Apartment Limited to Everest Owners Association, is represented and submits that the defendant no.10 does not have any objection to the prayers in the application.

The affidavit of service filed in Court states that no objection has been received.

Upon considering the relevant documents including the agreement for sale made by Western Building Corporation in favour of the outgoing agreement holder in respect of the office flat No.1F, 1st Floor and one pantry

and toilet between first floor and second floor of Everest Building at 46C, J. L. Nehru Road, Kolkata-700 071, it appears that the outgoing agreement holder had been put in possession of the said office flat after payment of entire consideration money to the respondent No.1. It appears that outgoing agreement holder by an agreement transferred the office flat after receiving the entire consideration from the petitioner and his brother Prabhu Dayal Choudhary and had put the petitioner and his brother in possession of the office flat. Subsequently the said Prabhu Dayal Choudhary transferred his right in the office flat to the petitioner after receiving entire consideration.

As no objection has been received from anyone pursuant to the provisions made in the "Sunday Statesman" and "Bartaman (Sunday Edition)", this Court does not see any difficulty in passing an order in favour of the applicant.

There shall accordingly be an order in terms of prayer (b) of the petition namely that Special Officer will be appointed to execute and register necessary conveyance deed for the concerned office flat included in prayer (b) of the petition in favour of the petitioner and for taking all other necessary steps. In the said deed of conveyance Prabhu Dayal Choudhary will sign as Confirming Party. The petitioner is not pressing for prayer (a).

Mr. Shyamsundar Mukherjee, Advocate, Bar Association Room No.2, Mobile No. 6289716613, is appointed as the Special Officer to take necessary steps as indicated above and register the deed of conveyance in favour of the petitioner. The petitioner will bear the remuneration of the Special Officer

which is assessed at Rs.50,000/- and all necessary expenses for travel and any other form of assistance. The execution and registration of the deed of conveyance shall be completed within 30th November, 2021. The Special Officer shall stand discharged upon execution and registration of the deed of conveyance.

IA No. GA/87/2021 is disposed of in terms of the above.

(MOUSHUMI BHATTACHARYA, J.)

RS