

OD-4

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

IA NO. GA/90/2022
In CS/343/1979

SUPERINTENDENCE COMPANY OF INDIA(P)LTD
Vs
WESTERN BUILDING CORPORATION

BEFORE:

The Hon'ble JUSTICE SUGATO MAJUMDAR

Date : 14th December, 2022.

Appearance:
Mr. A. Mitra, Adv.
Mr. D. Mitra, Adv.
For the Petitioner

Mr. Rajdeep Bhattacharya, Adv.
For the Association

Mr. Dhilon Sengupta, Adv
For C.L. Enterprises Private Limited

The Court : The instant suit was instituted by the Plaintiff Company with leave of this Court under Order 1 Rule 8 of CPC. Leave was sought under Order 1 Rule 8 of the CPC to institute the suit on behalf of the for the benefit of all persons like the Plaintiff who have occupied different portions of the suit property, namely, as Everest Building located at 46C, Jawaharlal Nehru Road, Kolkata – 700071 now known as 46C, Chowringhee Road, Kolkata – 700071. It is the case of the present Petitioner that in terms of a written agreement dated 13th April, 1973 which is referred to as the Principal Agreement, Western Building Corporation who was the owner of the property agreed to sale Flat No. 17A/1, located at 17th Floor of the

building to one Mrs. Sudarsan Vasta for consideration. Possession was handed over to the said Mrs. Sudarsan Vasta.

Mrs. Sudarsan Vasta by a nomination agreement dated 14th July, 1975 made between Mrs. Sudarsan Vasta and M/s. K.K. Enterprises appointed the later as a nominator in terms of the nomination agreement dated 14th July, 1975 after receiving valuable consideration. Possession of the said flat was handed over to M/s. K.K. Enterprises.

By a subsequent nomination agreement dated 27th September, 1979 made between M/s. K.K. Enterprise and M/s. Fairdeal Commercial Agency, M/s. K.K. Enterprise nominated M/s. Fairdeal Commercial Agency and after receiving entire consideration handed over the said office flat to the said M/s. Fairdeal Commercial Agency.

By a further nomination agreement dated 3rd April, 1998 made between M/s. Fairdeal Commercial Agency and M/s. C.L. Enterprises Private Limited, M/s. Fairdeal Commercial Agency nominated M/s. C.L. Enterprises Private Limited in respect of the said office flat. C.L. Enterprises Private Limited requested to the Administrator to the estate to record the change of ownership which was duly done and M/s. C.L. Enterprises Private Limited had been paying maintenance charges and other outgoings in respect of the demised property namely Flat No. 17A/1 of the building. On an application filed in this Court for amalgamation of number of companies, an Order dated 15th May, 2007 in C.P. No. 316 of 2006 connected with C.A. No. 300 of 2006 was passed by this Court for amalgamation and as per the scheme some of the assets including the said office space and some liability of M/s. C.L. Enterprises Private Limited were transferred to Sakthi

Consultants Private Limited of No. 17B & C, Everest, 46C, Chowringhee Road, Kolkata-700 071, the petitioner herein.

The Petitioner requested the Administrator of the estate to record the change of ownership which was duly done and the Petitioner has been paying maintenance charges and other outgoings in respect of the demised property, namely Flat No.17A/1 of the building since then. Subsequently, in course of time, the Defendant No.1 could not be traced out and no step was taken for execution of the formal deed of conveyance.

The Petitioner has presently filed the instant application praying for joining in the suit as an intervenor as well as with the prayer to appoint a Special Officer for execution of a deed of conveyance on behalf of the erstwhile owner, namely, Western Building Corporation in favour of M/s. Westwood Marketing Private Limited along with other prayers.

Pursuant to Prayer (d), an Order was passed by this Court on 10th November, 2022 for publication of the proposed sale in one bengali daily, namely, "Bartaman" and another in one english daily, namely, "Times of India". Pursuant to that Order, advertisements were published on 5th December, 2022 in the said two newspapers.

Two supplementary Affidavit-of-Services is filed showing service of notice upon the Everest Owners Association who were subsequently added as Defendant No.10 and also upon C.L. Enterprises Private Limited.

The Defendant No.10 has already made appearance and did not raise any objection. The C.L. Enterprises Private Limited appeared and submitted that they have no objection to sign as a confirming party in the deed of conveyance.

Prayer (d) was allowed and necessary advertisements were published. Now Prayer (a) is allowed allowing the Petitioner to intervene the suit in terms of Order 1 Rule 8 of CPC.

In terms of Prayer (c), a Special Officer is to be appointed to execute and register the necessary deed of conveyance on behalf of the Western Building Corporation in favour of Sakthi Consultants Private Limited. M/s. C.L. Enterprises Private Limited shall be the confirming party in the said deed.

Mr. Rakendu Lal Mitra, Advocate, High Court, Calcutta, Mobile No. 9836579476 a member of Incorporated Law Society, High Court, Calcutta be appointed as a Special Officer to execute a deed of conveyance on behalf of the Western Building Corporation in terms of prayer (c).

The remuneration of the Special Officer may be fixed as Rs.25,000/-.

Let the matter appear in the list on 20th December, 2022.

(SUGATO MAJUMDAR, J.)

A. Dey.