

OD-5

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

IA NO. GA/91/2022  
In CS/343/1979

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

BEFORE:

The Hon'ble JUSTICE SUGATO MAJUMDAR

Date : 14<sup>th</sup> December, 2022.

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

Mr. Rajdeep Bhattacharya, Adv.  
For the Association

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 and for the benefit of all persons like the Plaintiff who have occupied different portions of the suit property, namely, 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 10<sup>th</sup> July, 1972, which is referred to as the Principal Agreement, Western Building Corporation who was the owner of the property agreed to sale Flat No. 17B, located at 17<sup>th</sup> Floor of the building to one Sita Devi Saharia for consideration. Possession was handed over to the said Sita Devi Saharia. In terms of a Nomination Agreement dated 10<sup>th</sup>

February, 1986 made between Sita Devi Saharia and Ferro Alloys Corporation Limited, the former, after receiving valuable consideration, nominated Ferro Alloys Corporation Limited and handed over possession of the flat No. 17B. On application of Ferro Alloys Corporation Limited, the Administrator of the estate recorded the change of ownership and Ferro Alloys Corporation Limited had been paying maintenance charges and other outgoings of the demised property namely Flat No. 17B of the building.

By a subsequent nomination memorandum dated 25<sup>th</sup> October, 1994 made between Ferro Alloys Corporation Limited and M/s. Agarwal Udyog, a partnership firm, the Ferro Alloys Corporation Limited nominated M/s. Agarwal Udyog and handed over the possession of Flat No.17B, as aforesaid after receiving valuable consideration. By a letter dated 8<sup>th</sup> November, 1994 M/s. Agarwal Udyog requested the Administrator of the estate to record change of ownership which was duly done and M/s. Agarwal Udyog began paying maintenance charges and other outgoings in respect of the demised property namely Flat No. 17B.

Again thereafter, by an agreement dated 1<sup>st</sup> March, 2001 made between M/s. Agarwal Udyog and M/s, Shalimar Pellet Feeds Limited, M/s. Agarwal Udyog nominated M/s. Shalimar Pellet Feeds Limited who paid the entire consideration and took possession of the said office flat. The said M/s. Shalimar Pellet Feeds Ltd. being 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. 17B of the building.

Subsequently, in course of time, the Defendant No.1 could not be traced out and no steps 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. Shalimar Pellet Feeds Limited along with other prayers.

Pursuant to Prayer (d), an Order was passed by this Court on 10<sup>th</sup> 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 5<sup>th</sup> December, 2022 in the said two newspapers.

A supplementary affidavit in this respect is filed. Let the same be kept on record. Another Affidavit-of-Service is filed showing service of notice upon the Everest Owners Association who were subsequently added as Defendant No.10.

The Defendant No.10 has already made appearance and did not raise any objection.

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 necessary deed of conveyance on behalf of the Western Building

Corporation. M/s. Agarwal Udyog shall be the confirming party in the said deed.

Ms. Madhurima Halder, Advocate, High Court, Calcutta Mobile No. 9836020139 be appointed as a Special Officer to execute a deed of conveyance on behalf of the Western Building Corporation in terms of prayer (c) of the petition.

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

Let the matter appear in the list on 20<sup>th</sup> December, 2022.

(SUGATO MAJUMDAR, J.)

A. Dey.