

IN THE HIGH COURT OF SIKKIM

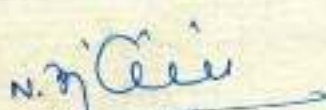
ORDER SHEET

Writ Petition (C).....No. ~~100~~ 7 of 199/ 2003

Hom Shankar Bhattarai & Others
Petitioner/Appellant

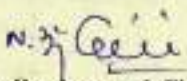
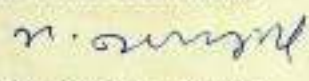
Versus

State of Sikkim & Others.....Respondent

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	07.04.2003	<p>Present : Mr D. K. Singh assisted by Mr. Hem Lall Bhandari and Mr. M. K. Chaturvedi, Advocates for the petitioners</p> <p>Mr. S. P. Wangdi, Advocate General assisted by Mr. J. B. Pradhan, Govt. Advocate and Mr. Karma Thinlay, Asstt. Govt. Advocate for the State-respondent Nos. 1 to 4.</p> <p>Heard Mr. D. K. Singh assisted by Mr. Hem Lall Bhandari and Mr. M. K. Chaturvedi, learned Counsel for the petitioners and also Mr. S. P. Wangdi, learned Advocate General assisted by Mr. J. B. Pradhan, learned Govt. Advocate and Mr. Karma Thinlay, learned Assistant Govt. Advocate for the State-respondent Nos. 1 to 4.</p> <p>Mr. S. P. Wangdi, learned Advocate General raised a preliminary objection pertaining to the maintainability of the case. According to the learned Advocate General, the case is defeated by delay and laches and apart from it, the writ petitioners did not avail or exhaust other recourses for the relief's sought for by them in this writ petition, instead of it the writ petitioners file this writ petition. Be that as it may, the matter be listed on 23.4.2003 for further order, and it is made clear that on that day, the matter pertaining to maintainability of the writ petition shall be considered.</p> <p style="text-align: right;">  (N. Surjamani Singh) Acting Chief Justice 07.04.2003 </p>	

At/

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
2.	23.4.2003	<p>Present : Mr. Mrigendra Chaturvedi with Mr. D. K. Singh and Mr. Hemlall Bhandari, Advocates for the petitioners.</p> <p>Mr. S. P. Wangdi, Advocate General with Mr. N. B. Khatiwada, Addl. Advocate General, Mr. J.B. Pradhan, Govt. Advocate and Mr. Karma Thinlay, Asstt. Govt. Advocate for respondent Nos. 1 to 4.</p> <p>Heard on admission.</p> <p>This writ petition concerns the Land Acquisition proceedings initiated on the publication of notice under Section 4(1) of the Land Acquisition Act, 1894 on 22.2.1999 for the construction of work of Teesta Hydel Project Stage-V by the N.H.P.C. Limited. The award was made by the Collector in the year 1999. Learned Counsel for the petitioners submits that possession was taken in pursuance of the award either in the year 1999 or thereafter. The main prayer made in the petition is for issue of a writ or direction in the nature of mandamus commanding the respondents to take necessary steps with utmost expedition for re-assessment of the compensation in respect of the acquisition of the lands of the petitioners. The procedure for raising objections with regard to the quantum of compensation has been specifically laid down in the Land Acquisition Act, 1894. If any person is aggrieved from the award made by the Collector he has to resort to the provisions under that Act. Further Section 16 of the Act provides that when "the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the government, free from all encumbrances."</p> <p>During the course of arguments, the learned Counsel for the petitioners has submitted that the notice published under section 4 of the Land Acquisition Act was not valid. However, no prayer has been made by the petitioners for quashing the notice under Section 4 of the Land Acquisition Act. The</p>	

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At/		<p>petitioners have not even annexed a copy of the notice published under section 4. Besides, once possession has been taken, the land absolutely vests in the Government free from all encumbrances. Despite the publication of the notice under section 9, no objections were filed by the petitioners and no application was made by the petitioners for reference under section ¹⁷ of the Act. Furthermore, the petition was filed on 4.4.2003. It suffers from laches. The petition is frivolous. It is dismissed with cost of Rs.10,000/- payable to respondent No.1, the Government of Sikkim. The cost be paid within one month.</p> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">  (N. Surjamani Singh) Judge 23.4.2003 </div> <div style="text-align: center;">  (Ripusudan Dayal) Chief Justice 23.4.2003 </div> </div>	