



# IN THE HIGH COURT OF SIKKIM

## ORDER SHEET

CIVIL REVISION PETITION No. 13 of 199 2003

STATE BANK OF INDIA .....Petitioner/Appellant

Versus

M/S SUPER AUTO AGENCY & OTHERS

.....Respondent

| Serial No. of Order | Date of Order | Order with Signature  | Office Note as to action (if any) taken on Order  |
|---------------------|---------------|---|---|
| 1.                  | 30.6.2003     | <p>Present : Mr. A. Moulik, Advocate for the petitioner.</p> <p>.....</p> <p>Heard Mr. A. Moulik, learned Counsel appearing for the petitioner.</p> <p>Let usual notice issue to show cause upon the respondents as to why the impugned order dated 10.6.2003, passed by the learned District Judge, Special Division-I at Gangtok in Civil Suit No.9 of 2002 should not be set aside as prayed for and as to why the prayer of the petitioner should not be allowed or why such order or orders which this Court deems it fit and proper should not be passed/issued.</p> <p>Notice is made returnable on 14.7.2003, for which the petitioner is required to take steps for service of notice upon the respondents within 3 days.</p> <p>I have perused the application being CMA No.86 of 2003. After proper application of my mind in this matter, I am of the view that an appropriate ad interim order is called for from the ends of this Court and, accordingly, I make the following ad interim order :-</p> <p>"Further proceeding of the case being Civil Suit No.9 of 2002 now pending in the Court of the Learned District Judge, Special Division - I at Gangtok shall remain suspended."</p> <p><u>C.M.A.No.86/2003.</u></p> <p>In view of the order passed today in Civil Revision</p> | <p>Request filed today at 11.03.03. and notice issued on 2.7.03. by Judge</p> <p>A Copy of order has sent to Dist. Judge. SP. Div. I on 1-7-03 by Judge</p> |

N. J. Chell





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Order

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3. 30-7-2003

Heard Mr. A. Moulik, learned counsel for the petitioner and Mr. S.S. Hamal, learned counsel for respondent Nos.1 and 2.

This Civil Revision is directed against the order dated 10-6-2003 passed by the learned District Judge (Special Division-I) in Civil Suit No.9/2002 rejecting the petitioner's prayer for amendment of the plaint. An application has now been filed on behalf of the petitioner vide C.M.A. No.103/2003 seeking permission to withdraw the revision on the ground that revision is not maintainable and writ petition under Article 227 of the Constitution would be maintainable.

In view of averments made in the application, this Civil Revision is permitted to withdrawn with liberty to file a writ petition under Article 227 of the Constitution. The Civil Revision is dismissed as withdrawn. Liberty is given to the petitioner to file a writ petition challenging the above impugned order, if so advised.

(R.K. Patra)  
Chief Justice  
30-7-2003.

rs/

Heard & final  
Court sent back  
along with the  
order 30-7-03  
& order dt-13-8-03  
& L.P. dt-23/8-03  
& the letter has  
been sent on 22/03  
19/8/03