



IN THE HIGH COURT OF SIKKIM

ORDER SHEET

REGULAR FIRST APPEAL.....No4 4 of 198 2003

PANCHADEO PRASAD

Petitioner/Appellant

Versus

BASANT KUMAR

Respondent


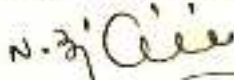
Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	17 2003	<p>Present : None for the appellant.</p> <p>None appears for the appellant.</p> <p>I have perused the memorandum of appeal. In my considered view, this appeal can be amiable admitted in the absence of the appellant or his Counsel and, accordingly, the appeal is admitted.</p> <p>Call for the records.</p> <p>Let usual notice issue upon the respondent to show cause as to why the impugned judgment dated 15.5.2003 passed by the learned District Judge, East and North Sikkim at Gangtok in Civil Suit No.13 of 2001 should not be set aside as prayed for or as to 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 18.7.2003, for which the appellant is required to take steps for service of notice upon the respondent within 7 days from today. At the Bar, Mr. A. K. Upadhyaya, learned Counsel submitted that the conducting Counsel is from Siliguri, and, as such, he may not be able to attend Court today. In his usual frankness, Mr. Upadhyaya, learned Counsel submitted that he could enter appearance for and on behalf of Mr. S. Majumdar, learned Counsel for the appellant. The submission of Mr. Upadhyaya is, accordingly, noted.</p> <p>In the meantime, further proceedings of Civil Suit No 13 of 2001 now pending in the Court of the learned District Judge.</p>	<p>Recd. Called for on 2-7-03. <i>[Signature]</i></p> <p>Requisite filed notice issued on 4-7-03. <i>[Signature]</i></p>

N. J. Coll



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At/ 2. 18.7.2003		<p>East and North Sikkim at Gangtok shall remain suspended until further orders.</p> <p style="text-align: center;"><i>N. S. Singh</i> (N. Surjanani Singh) Acting Chief Justice <u>1.07.2003</u></p> <p>Present : Mr. Umesh Ranpal assisted by Mr. Sanjay Gurung, Advocates for the appellant.</p> <p>Mr. B. Sharma assisted by Mr. Bhupendra Pokhrel, Advocates for the respondent.</p> <p style="text-align: center;">--</p> <p>Heard Mr. Umesh Ranpal assisted by Mr. Sanjay Gurung, learned Counsel for the appellant. Also heard Mr. B. Sharma assisted by Mr. B. Pokhrel, learned Counsel for the respondent.</p> <p>The related office note indicates about the factum of receipt of the related case record from the Court below. It is made clear that the appellant shall file the paper book within a period of 15 days and the appellant shall supply copy of the paper book to the respondent and make a copy of it available with the Registry of this Court.</p> <p>The matter be listed on 4th August, 2003 for necessary orders.</p> <p style="text-align: center;"><i>N. S. Singh</i> (N. S. Singh) Judge <u>18.7.2003</u></p>	<p>Case Records Received from the Trial Court <i>N. S. Singh</i></p> <p>Paper book has been filed by the appellant. <i>N. S. Singh</i> 31.7.03.</p>
at/			



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3.	4.8.2003	<p>Heard Mr. S. Majumdar assisted by Mr. Umesh Ranpal, learned Counsel for the appellant and Mr. B. Sharma, learned Counsel for the respondent.</p> <p>Paper book is ready, and, as such, the case is ripe for hearing. Be listed on 2nd September, 2003 for hearing.</p> <p style="text-align: right;"> (N. S. Singh) Judge <u>4.8.2003.</u></p>	
at/ 4.	2.9.2003	<p>Heard Mr. Umesh Ranpal, learned Counsel for the appellant and Mr. Bhupendra Pokhrel, learned Counsel for the respondent.</p> <p>Learned Counsel for the respondent sought for adjournment of this case. The matter be listed on 23.9.2003 for hearing.</p> <p style="text-align: right;"> (N. S. Singh) Judge <u>2.9.2003</u></p>	
at/ 5.	23.9.2003	<p>Heard Mr. S. Majumdar, learned Counsel assisted by Mr. Umesh Ranpal, learned Counsel for the appellant and Mr. B. Sharma, learned Counsel assisted by Mr. B. Pokhrel, learned Counsel for the respondent.</p> <p>Upon hearing learned Counsel for the parties at some length, it appears to me that the case records pertaining to Civil Suit No.</p>	





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at/		<p>36 of 1965 and Execution Case No.9 of 1966 of the Court of Munsif Magistrate, East Sikkim, Gangtok between Puriram of Middle Camp versus Prahladam are relevant in the present case for just determination of the real points ⁱⁿ and controversies between the parties. This Court ^{is} require to examine the said case records, for which the Registry is directed to call for the records and make the same available before the next date of hearing of the present case. It is made clear that if the said case records is received by this Registry, the learned Counsel appearing for the parties are ^{the} allowed to inspect the said records in/presence of an officer of this Registry.</p> <p>The matter be listed on 20.11.2003 for further hearing.</p> <p style="text-align: right;"><i>N. S. Singh</i> (N. S. Singh) Judge 23.09.2003</p>	<p><i>filed from the lower court has been called for 25.11.03</i></p>
at/	5. 20.11.2003	<p>Since it is a part-heard matter, put up before the appropriate bench for hearing on 27.11.2003.</p> <p style="text-align: right;"><i>R. K. Patra</i> (R. K. Patra) Chief Justice 20.11.2003</p>	



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6. 27.11.2003		<p>Heard Shri S. Majumdar, learned Counsel for the appellant and Shri B. Sharma, learned Counsel for the respondent.</p> <p>The District Judge, (East and North) Sikkim at Gangtok under his ^{office} letter dated 19.11.2003 stated that the related case records could not be traced out despite due searches in the record room. However, he directed the Record Keeper once again to conduct thorough check of the entire records and the records will be submitted as soon as the same is traced out. I have perused the report of the Record Keeper also. In the meantime, the appellant filed an application and sought for amendment, for which Shri B. Sharma, learned Counsel for the respondent submitted that he needs some time to file objection. Considering the existing facts and circumstances of the case, I allow the respondent to file objection to the application for amendment within 3 weeks. It is made clear that the Registry is to send a reminder to the Court below for making the said records available before this Court as early as possible.</p> <p>The matter be listed for necessary orders on 12.3.2004.</p> <p style="text-align: right;">(N. S. Singh) Judge 27.11.2003</p>	<p>Remedial sent on 1-12-03 by 11/12/03</p> <p>Response not received from the Dist. Judge (E & N) by 11/3/04</p>

at/



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7.	12.3.2004	<p>As prayed for by Mr. Suraj Chettri, learned Counsel appearing on behalf of Mr. S. Majumdar, learned Counsel for the appellant, case is adjourned for the day thus fixing the same for hearing on amendment matter on 25.3.2004. Prayer for adjournment is not objected by Shri Sharma, learned Counsel for the respondent who submitted that the respondent has already filed a written objection to the amendment petition.</p> <p style="text-align: right;"><i>N. S. Singh</i> (N. S. Singh) Judge</p>	

at/



Continuation Order Sheet

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8.	25.03.04	<p>Heard Mr. Umesh Rampal learned counsel assisted by Mr. Sanjay Gurung, learned counsel for the appellant and Mr. B. Sharma, learned counsel assisted by Mr. B. Pokhrail, learned counsel for the respondent.</p> <p>Related case records is yet to be sent by the office of the District Judge, East and North Sikkim to this Registry in terms of the earlier orders dated 23rd September 2003 and 27th November 2003. So far no communication has been made by the District Judge, East and North Sikkim despite the reminder dated 1st December 2003 sent by the Registry of this Court. It is made clear that the District Judge, East and North Sikkim is to expedite the process for sending the related records and made the same available before this Court on the next date without fail. Registry is to act accordingly.</p> <p>List the case on 16.4.2004 for necessary orders.</p> <p>In the meantime the parties are at liberty to settle the matter amicably outside the Court for which the learned counsel for the parties shall assist the parties.</p> <p style="text-align: right;">N. S. Singh (N.S. Singh) Judge 25.03.2004</p>	<p>Xerox A copy of the letter</p> <p>order forwarded to D. Judge for further action in the settlement</p> <p>A Xerox copy of the letter dated 2.4.2004 from the D. Judge E/N has been handed over to Registrar General of the 18.4.04</p>
9.	16.4.2004	<p>Upon hearing learned Counsel for the parties as well as the parties, I am of the view that the parties need some time so as to enable them to settle the matter amicably outside the court. For the reasons mentioned above, the matter be listed on 26.4.2004 for further orders.</p> <p style="text-align: right;">N. S. Singh (N. S. Singh) Judge</p>	



Continuation Order Sheet

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10.	26.4.2004	<p>As prayed for by learned Counsel appearing for the parties, the matter be listed on 06.05.2004 for hearing.</p> <p><i>N. S. Singh</i> (N. S. Singh) Judge</p>	
11.	6.5.2004	<p>To secure the ends of justice, I further direct the District Judge, East and North Sikkim to make the related records available before this Court in connection with the present case on or before 28th May 2004. Registry is directed to communicate this order to the ld. District Judge (E & N) immediately.</p> <p>In view of it, the case is fixed for hearing on 28.5.2004.</p> <p><i>N. S. Singh</i> (N. S. Singh) Judge</p>	<p>As directed a copy of the order is to be forwarded to ld. Judge</p> <p><i>of Paper</i> 6.5.2004</p> <p>A Copy of order forwarded to D.J. (E & N) on 6.5.04</p> <p><i>9.5.04</i> Reply recd. from D.J. (E & N) on 26.5.04</p> <p><i>26/5/04</i></p>
12.	28.5.2004	<p>In view of the existing facts and circumstances of the case, opportunity is given to the parties to settle the matter amicably outside the Court as prayed for by learned Counsel appearing for the parties. Accordingly, the case is fixed on 22nd June 2004 for further order.</p> <p><i>N. S. Singh</i> (N. S. Singh) Judge</p>	



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13.	22.6.2004	<p>None appears for the appellant. Heard Shri B. Sharma, learned Counsel for the respondent. In my considered view, the appellant has no interest to pursue this case. Accordingly, the appeal is dismissed for default.</p> <p>N. S. Singh (N. S. Singh) <u>Judge</u></p>	<p>Just limit word persuaded on 12-8-04 by 12/8/04</p>