

IN THE HIGH COURT OF SIKKIM

ORDER SHEET

Civil Revision Petition No. 01 of 2007

Laxumana Limboo Petitioner / Appellant

Versus

K. B. Bhandari & Others Respondent

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
14.	28.05.2007	<p>Heard Mr. A. J. Sharma, learned Counsel assisted by Mr. B. K. Rai, learned Counsel appearing on behalf of the Petitioner.</p> <p>Perused the impugned order dated 19.4.2007 and also the relevant records of the case available.</p> <p>Facts of the case in a short compass are as follows :-</p> <p>The Defendant Nos. 1 and 2 who are the principal respondents herein, raise objection under Order VII Rule 11(e) of the CPC for rejection of the Plaintiff/Petitioner in the Court below. The main contention of the Plaintiff/Petitioner before the Court below was for impleading the SDJM (Soreng) in his capacity as a government servant as one of the defendants in the suit and accordingly, he was impleaded as Defendant No.3.</p> <p>Without going through the merits of the case in <i>gau of his view that</i> depth, the learned Court below, namely, the Court of S</p> <p><i>n.3 Cee</i></p>	



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		<p>the Civil Judge, Gyalshing, West Sikkim passed the impugned order. The relevant findings of the learned Court below are important and material for just determination of the real points and controversy between the parties and the same is quoted below :-</p> <p>"It has come to my notice that the plaintiff before impleading the S.D.M (Soreng) in his capacity as a public servant as a party to the suit should have complied with the mandatory provisions of Section 80 of the C.P.C.</p> <p>On the plaintiff's failure to do so the plaint is returned to the plaintiff with liberty to file a fresh after duly complying with the said provision of law."</p> <p>It has come to my notice that the plaintiff impleaded the SDM (Soreng) as one of the parties in his capacity as a public servant. According to me, the learned Court below gave reasoned order on the issue, thus entertaining the objections of the Defendant Nos. 1 and 2, inasmuch as, it is mandatory under the provisions of law, namely, Section 80 of the CPC., in other words, the plaintiff did not follow the mandatory provisions of Section 80 CPC. Suffice is made for not going through the matter in depth.</p> <p>For the reasons, observations and discussions <i>I am of the view that</i> made above, the present petition is devoid of merit & <i>as such</i> and accordingly it is rejected, thus confirming the</p>	<p><i>Reasoned</i> <i>N.B. O.A.</i></p>

N.B. O.A.



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		<p>impugned order with a cost of Rs.5,000/- which is to be paid by the Plaintiff to the main contesting Defendant Respondent Nos. 1 and 2 within a period of a week from today.</p> <p>Let a copy of this order be communicated to the learned Court of the Civil Judge, Gyalshing, West Sikkim as well as to the contesting parties, namely, the Defendant Respondent Nos. 1 and 2. It is also made clear that the learned Court below shall expedite the disposal of the main suit No.1 of 2005.</p> <p style="text-align: right;"><i>N. Surjamani Singh</i> (<u>N. Surjamani Singh</u>) <u>Judge</u></p>	<p>Alley of Order to CJ (C) on 29.5.07.</p> <p><i>Surjamani Singh</i> 29/5/07</p>

ATG/