



IN THE HIGH COURT OF SIKKIM

CIVIL JURISDICTION

WP(C) No. 46 of 20.11.

NUK TSHERING BHUTIA

Appellants (s)
Petitioner (s)

Versus

STATE OF SIKKIM & ORS.

Respondent (s)
~~Opposite party (s)~~

For ~~Appellant~~
Petitioner
(Advocate (s))

MR. K.T.BHUTIA,SR.ADVOCATE WITH MS.BANDANA
PRADHAN AND MS.NISHA RJLIWAL

For Respondent
~~Opposite Party~~
(Advocate (s))

MR.J.B. PRADHAN,ADDL. ADVOCATE GENERAL WITH
MR.KARMA THINLAY,GOVT.ADVOCATE AND MR.S.K.
CHETTRI,ASSTT.GOV.T.ADVOCATE FOR STATE

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01.	11.11.11	<p>Present: Mr. K.T. Bhutia, Sr. Advocate with Ms. Bandana Pradhan And Nisha Rajliwal, Advocates for the Petitioner.</p> <p>Mr. J.B. Pradhan, Addl. Advocate General with Mr. Karma Thinlay Namgyal, Govt. Advocate and Mr. S. K. Chettri, Asstt. Govt. Advocate for State-respondents.</p> <p>---</p> <p>This petition has been taken up on being mentioned by Mr. K.T. Bhutia, learned Senior Advocate, expressing urgency involved in the matter.</p>



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		<p>2. Shorn of all details, suffice it to state that an order of eviction under sub-section (1) of Section 5 of the Sikkim Public Premises (Eviction of Unauthorised Occupants and Rent Recovery) Act, 1980 (for short, 'the Act') had been passed by the District Magistrate, South Sikkim at Namchi, who is the Prescribed Authority under the Act in respect of a land at Melli-Jorethang Road, Melli, South Sikkim, measuring 14 Mtr. x 29 Mtr. on Khasma Plot No. 37 as per Cadastral Survey of 1952, on which a RCC building has been constructed by the petitioner. The order is dated 11.10.2011.</p> <p>3. Mr. Bhutia submits that the petitioner has filed an appeal under Section 9 of the Act on 09.11.2011, which is presently pending before the Appellate Authority for disposal. Since the Appellate Authority was out of station during that period, the matter is yet to be taken up. As per Mr. Bhutia, the urgency has arisen as the Prescribed Authority has proceeded to get the order dated 11.10.2011 executed. It is submitted that the period of limitation is 30 (thirty) days from the date of publication of the order, i.e. 11.10.2011 in the present case which is apparent from the impugned order filed as Annexure P-12 to the writ petition. As the appeal has been filed within time and is yet to be heard and disposed of by the Appellate Authority, the petitioner shall be seriously prejudiced if the impugned order is allowed to be executed at this stage. It is, therefore, prayed that pending disposal of the appeal, an order be issued staying further operation of the impugned order of the Prescribed Authority in the meantime.</p>

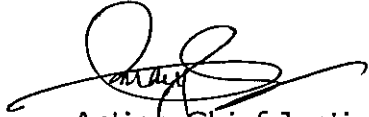


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		<p>4. Mr. J.B. Pradhan, learned Addl. Advocate General, submits that he is not aware of the facts and circumstances of the case, as he has received a copy of the writ petition only this morning. He, however, concedes to the appeal provision provided under Section 9 of the Act. He suggests that a direction be issued upon the Appellate Authority to dispose of the appeal pending, which the action initiated by the Prescribed Authority may be kept at abeyance.</p> <p>5. The submission is fair and just. Considering the facts and circumstances of the case and in view of the fact that the matter is pending before the Appellate Authority, let the impugned order dated 11.10.2011, Annexure P-12, be stayed until the Appellate Authority disposes of the appeal filed by the petitioner. The Appellate Authority may take up the matter expeditiously and while doing so also consider the facts and circumstances set out in the writ petition treating it as a part of the appeal.</p> <p>6. The petitioner shall submit a copy of the writ petition to the Appellate Authority for its consideration with a copy to the other side.</p> <p>7. With the above direction, the present writ petition stands disposed of.</p>



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Index: Internet: pm/jk	Yes/No Yes/No	<p>8. Needless to state that the parties are at liberty to approach this Court, if aggrieved or if so advised.</p> <p> Acting Chief Justice 11.11.2011</p>