

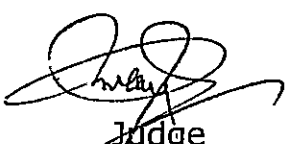
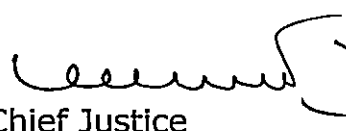


Case No. RFA No. 04 of 2011

Serial No.	Date	Order (s) with Signature (s)
1	2	3
		<p style="text-align: center;">BEFORE</p> <p style="text-align: center;">HON'BLE THE CHIEF JUSTICE MR. JUSTICE PERMOD KOHLI</p> <p style="text-align: center;">HON'BLE MR. JUSTICE S.P. WANGDI, JUDGE</p>
05.	12.12.11	<p>Present: Mr. Udai P. Sharma and Mr. G. Lama, Advocates for the appellant.</p> <p>Mr. Barun Dahal, Advocate for respondent No.2.</p> <p>Mr. J.B. Pradhan, Addl. Advocate General with Mr. Karma Thinlay, Govt. Advocate and Mr. S. K. Chettri, Asstt. Govt. Advocate for respondent No.4</p> <p style="text-align: center;">---</p> <p>This appeal arises out of Judgment and Decree dated 22.11.2010 passed by the learned District Judge, Special Division-II, East at Gangtok in Civil Suit No. 3 of 2010 whereby the suit filed by the appellant/plaintiff has been dismissed. It has come on record that earlier the appellant's father filed a Civil Suit No.8 of 1999 for declaration of his status as a 'Sikkim Subject'. The said suit was decreed in his favour. However, during the pendency of the execution proceedings another Civil Suit No.04 of 2009 was filed by the Forest Department, Govt. of Sikkim, disputing the status of the appellant as that of a 'Sikkim Subject'. Vide impugned judgment the suit of the appellant/plaintiff has been dismissed on two grounds -</p> <p style="text-align: center;">(i) for non-production of the original documents; and</p> <p style="text-align: center;">(ii) ineligibility of appellant to acquire property in Sikkim.</p>



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		<p>During the course of the arguments, the learned counsel for the appellant has sought leave of the Court to withdraw the suit with liberty to file a fresh suit on the same cause of action after the disposal of the Civil Suit No.04 of 2009 wherein the status of the appellant is required to be finally determined.</p> <p>Keeping in view the pendency of the Civil Suit No.04 of 2009, we allow the appellant to withdraw the Civil Suit No.03 of 2010 with liberty as prayed for. The suit shall stand withdrawn with liberty as above. Resultantly the present appeal is rendered infructuous.</p> <div><div> Judge 12.12.2011</div><div> Chief Justice 12.12.2011</div></div>

rst/pm