

IN THE HIGH COURT OF SIKKIM

CIVIL JURISDICTION

CM APP.

87

11

No. of 20.....

IN CRP.NO.01/2009

Karmapa Charitable Trust & Ors.

Applicants

Appellants (s)
~~Petitioner (s)~~

Versus

State of Sikkim & Ors.

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

For ~~Appellant~~
Applicants

~~Petitioner~~
(Advocate (s))

Mr.Bikash Ranjan Bhattacharyya,Sr.Advocate with Mr.Norden
Tshering Bhutia

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. Govt. Advocate
for resp. no. 1 & 2 Mr. Bhaskar Raj Pradhan, Mr. N. Rai and Mr.
Anmol Prasad, Sr. Advocates with Ms. Jyoti Kharka and Ms.
Yangchen D. Gyatso for resp. no. 3

Serial No.	Date	Order (s) with Signature (s)
1	2	3
01.	13.10.11	<p>Present: Mr. B. Sharma, Sr. Advocate with Mr. N.T. Bhutia, Advocate for the Petitioners.</p> <p>Mr. J.B. Pradhan, Addl. Advocate General with Mr. S. K. Chettri, Asstt. Govt. Advocate for respondents No. 1 & 2.</p> <p>Mr. Anmole Prasad and Mr. N. Rai, Sr. Advocates with Ms. Jyoti Kharka, Ms. Yangchen D. Gyatso and Mr. Karma Tshering Bhutia, Advocates for respondent No. 3.</p> <p>---</p> <p>This application has arisen out of an order under Section 133 Cr. P.C. dated 30.09.2011 passed by the District</p>



Case No. C.M.A. No. 87/2011

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		<p>Magistrate, East Sikkim, directing the owner, Hotel Kunga Delek, Rumtek DCC, Rumtek to demolish the hotel building within 3 (three) days from the date of the order, the building having found to be severely damaged due to the Earthquake that occurred on 18.09.2011 and was likely to fall causing danger to the persons living in neighbourhood or those passing by.</p> <p>2. The application, as per Mr. Anmole Prasad, learned Senior Advocate appearing for the petitioner, was necessitated on account of an order dated 01.09.2000 passed by the learned District Judge, Special Division-I I/C, Gangtok in Civil Suit No. 40 of 1999, renumbered as Title Suit No. 08 of 2004, by which maintenance of status-quo in respect of the suit properties in dispute in the suit had been directed on being conceded to by both the sides. It is submitted that the building in question is one of such properties falling within the disputed premises involved in the Title Suit No. 08 of 2004.</p> <p>3. In the present case, we are not concerned with the merits of the disputes between the parties in respect of the suit properties, but limited only to the order dated 30.09.2011 issued under Section 133 Cr.P.C. passed by the District Magistrate, East Sikkim. In consideration of this and the grave urgency involved in the matter, the application is taken up for disposal.</p> <p>4. Mr. B. Sharma, learned Senior Advocate appearing on behalf of the petitioners concedes to the facts contained in the notice under Section 133 Cr.P.C.</p>



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		<p>5. In view of this position and in view of the imminent threat posed by the damaged building, where the Hotel namely, "Hotel Kunga Delek" is being run, the State-respondents shall proceed with the demolition of the building. The State-respondents would be the appropriate party to take up the work as it is also one of the parties in the title suit pending in the Court below and, it is a matter of record that the state-respondent was impleaded as a party primarily on account of its role in intervening in the dispute to ensure maintenance of law and order.</p> <p>6. It may be observed that this Order shall not in any manner affect the order of status-quo dated 01.09.2000 passed by the learned trial Court.</p> <p>7. It is also made clear that any observations made in this order shall not be construed as expression of any opinion on the merits of the case. Needless to state that the parties to the Title Suit are at liberty to approach the learned Trial Court in view of the situation arising out of the aforesaid facts, if so advised in the matter.</p> <p>8. With the above observations, the application stands disposed off.</p> <div>Acting Chief Justice 13.10.2011</div>
Index: Internet: at/jk	Yes/No Yes/No ✓	