

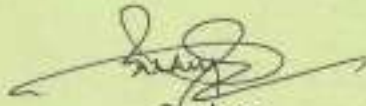
Serial No.	Date	Orders (s) with Signature (s)
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05.	03.09.2012	<p style="text-align: center;"><b>BEFORE</b> <b><u>HON'BLE MR. JUSTICE S. P. WANGDI, JUDGE</u></b></p> <p>Present : Ms. (Dr.) Doma T. Bhutia, Advocate for the petitioner.</p> <p>Mr. Karma Thinlay Namgyal, Govt. Advocate with Mr. S. K. Chettri, Asstt. Govt. Advocate and Mr. Thinlay Dorjee, Advocate for the State Respondents no.1 to 5.</p> <p>Mr. Jagat B. Rai, Advocate for Respondent No.4.</p> <p>Mr. A. Moulik, Senior Advocate with Ms. Kesang Diki Bhutia, Mr. Ranjit Prasad, Mr Pujan Kharka and Ms. Karma Denka Bhutia, Advocates for the Respondent No.6.</p> <p style="text-align: center;">***</p> <p>Heard.</p> <p>Mr. Karma Thinlay Namgyal, the learned Government Advocate, submits that out of two plots of land in question, Plot No.2158/P measuring 1.07 acres, i.e., 0.4331 hectare, has since been recorded in the name of Shri Deo Narayan Pradhan, the father of the Petitioner by making necessary rectification in the land records and necessary Parcha Khatian has been issued. As far as the other plot of land, i.e., Plot No.1100 measuring about 1.16 acres at Sawaney under Central Pandam Block falling under Pakyong Sub-Division is concerned, rectification of the records has not been done. It has been informed that there being a dispute over its title between the Petitioner and his paternal uncle, Shri Durga Dass</p>



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		<p>Pradhan, the Petitioner has been asked to approach the appropriate Court of Law for the purpose. In my view, the stand taken by the District Collector, East Sikkim, appears to have taken an erroneous view. Since in the existing Parcha Khatian in respect of the land as found in Annexure-1 (colly) to the Writ Petition at page 15, the land recorded in the name of the grandfather of the Petitioner, namely, Harka Bahadur Pradhan, son of Pauda Singh Newar, there would be no impediment in getting the land record restored in the name of the grandfather as per the existing Parcha Khatian. The Civil Suit, as per information given to us by the learned Counsels, pertains to dispute over the title of the property between the Petitioner and his uncle, Shri Durga Dass Pradhan as also contained in the letter dated 13.8.2012 addressed to the Additional Advocate General by the District Collector, and, therefore, the restoration of the Revenue Record in the name of the grandfather of the Petitioner and of the uncle, Shri Durga Dass Pradhan, would in no way affect the rights of either of the parties in the Civil Suit. The State Respondents may, therefore, take necessary steps for getting the land records restored in the</p>



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		<p>name of Harka Bahadur Pradhan, leaving the parties to settle their title in the pending Civil Suit.</p> <p>Mr. Karma Thinlay Namgyal, the learned Government Advocate, in his usual fairness submits that there would be no difficulty to comply with the direction and that he shall convey about it personally to the District Collector, East Sikkim for its expeditious compliance.</p> <p>In view of this nothing further needs to be gone into in the Writ Petition. However, Mr. A. Moulik, learned Senior Advocate representing the Respondent No.6, submits that the liability of the Company would be confined only to the construction and the activities within 26.2313 hectare of forest land allotted to it by the State Government, for which necessary compensation has already been paid to the State Government and would not be liable for such payment. We are not concerned with the payment of compensation in respect of the acquisition of land in the present proceedings, and, therefore, it would not be appropriate for me to enter into this question. Suffice it to observe that no impediment under the law exists for the Petitioner to take up the issue with regard to the question before</p>

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		<p>the appropriate authority permissible under the law and it is open for the Petitioner to take up or institute necessary proceedings for payment of such compensation and the damages caused to the land including the standing crops. It would be too premature for this Court to enter into those questions.</p> <p>In view of the above directions it would be futile to keep this matter lingering any further. Accordingly, the Writ Petition stands disposed in terms of the above.</p> <div style="text-align: right;"> Judge <u>03.09.2012</u></div>

Index : Yes / No  
Internet : Yes / No

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