

IN THE HIGH COURT OF SIKKIM

CIVIL JURISDICTION

CM APPL. No. 16 of 2012
IN WP(C) 47 OF 2011)

Pushpak Ram Subba & Ano. Applicants
-Appellants (s)
~~Respondent (s)~~

Versus

State of Sikkim & Ors.


Respondent (s)
Opposite party (s)

-Appellant
For Applicants Mr. Tashi Raptan Barfungpa and Mr. D.K. Siwakoti
Petitioner
(Advocate (s))

Respondent
For 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 to 6, Mr. Jagat Rai, Mrs. Rita Sharma and Mrs. Choden Lhamu Bhutia for Resp. No. 3, Ms. Sebita Chettri for Resp. no. 5, Mr. A. Moulik, Sr. Advocate with Mr. Jorgay Namka for Resp. no. 7.

Serial No.	Date	Order (s) with Signature (s)
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01.	26.03.2012	<p>BEFORE</p> <p>HON'BLE MR. JUSTICE S. P. WANGDI, JUDGE</p> <p>Present: Mr. Tashi Raptan Barfungpa, Advocate with Mr. D. K. Siwakoti, Advocate for the Petitioners.</p> <p>Mr. Karma Thinlay Namgyal, Government Advocate with Mr. Thinlay Dorjee Bhutia, Advocate for Respondents No.1 to 6.</p> <p>Mr. Jorgay Namka, Advocate for Respondent No.7.</p> <p>-----</p> <p>Learned counsels appearing on behalf of the Petitioners and Respondent No.7, by filing a joint petition duly supported by affidavits of the Petitioners and the Senior</p>

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		<p>General Manager of the Respondent No.7, submit that the disputes giving rise to the present proceeding have been amicably settled in terms of a Deed of Agreement dated 16-03-2012 filed as Annexure AX to the application. It is submitted that the matter may be disposed of in terms of the Agreement.</p> <p>2. The Learned Counsels submit that in order to give effect to Clause 6 and 8 of the Agreement, response of the State-Respondents No.3 and 4, namely, Department of Forest, Environment and Wild Life Management, Government of Sikkim and Land Revenue and Disaster Management Department, Government of Sikkim, respectively, is required and, therefore, pray that directions be issued upon them for expeditious action on those.</p> <p>3. Heard and considered.</p> <p>4. The application accompanied by the affidavits and the Deed of Settlement are accepted and taken on record and registered as CM Appl No.16 of 2012.</p> <p>5. I have perused the terms and conditions of the Agreement and I am in agreement with the Learned Counsels that for giving effect to Clauses 6 and 8 of the Agreement action on the part of the State-Respondents would be unavoidable. Clauses 6 and 8 are reproduced below:-</p> <p style="text-align: center;">"</p> <p>6. The Second Party in order to comply with Clause 2 & 3 of the Deed of Settlement must take all necessary steps to transfer all the properties as mentioned in clause 2 & 3 above and must pursue issuance of proposed Notification under Section 4 of the Land Acquisition Act, 1894 by the Government of Sikkim.</p>

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		<p>8. That both the First and the Second Party agree and understood that compensation for washed away Trees, Plants, Crops, Vegetation etc., alleged to have been planted on the washed away Land of the Second Party shall be assessed by the Competent Government Authorities and the same will be binding on both the parties after which the payment shall be accordingly made to the Second Party by the First Party within 30 days from the date of findings by the District Authorities.</p> <p>....."</p> <p>6. The Respondent No.4, the Secretary, Land Revenue and Disaster Management Department, Government of Sikkim, and the District Collector, East District, Sikkim, Respondent No.6, are directed to ensure that the acquisition proceedings with regard to the land in question are taken up expeditiously in order to ensure that the issue at Clause 6 of the Agreement is settled early.</p> <p>7. Similarly, the Department of Forest, Environment and Wild Life Management, Government of Sikkim, is directed to take all necessary steps immediately for assessing the compensation for the washed away trees, plants, crops, vegetations etc., from the land of the Petitioners in order to enable the Respondent No.7 make payment to the Petitioners in terms of Clause 8 of the Agreement reproduced above..</p> <p>8. With the above directions and observations, this application stands disposed of.</p> <p>9. No order as to costs.</p> <p style="text-align: right;">  Judge 26-03-2012 </p> <p>Index : Yes/No Internet : Yes/No</p>