

IN THE HIGH COURT OF SIKKIM
CIVIL JURISDICTION

CRP No. 02/2014
Deepak Kumar Rai vs. Naina Kala Sharma & Ors.

BEFORE
HON'BLE THE CHIEF JUSTICE
MR. JUSTICE N.K. JAIN

01. 25.08.14 Present: M/s. A. K. Upadhyaya, Sr. Advocate with Binita Chhetri and Aruna Chhetri, Advocates for the Petitioner.

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Heard learned counsel for petitioner.

This Revision Petition is directed against the impugned order dated 16.06.2014 passed by learned District Judge, South Sikkim at Namchi in Title Suit No. 43 of 2013, whereby the objection of defendant-petitioner to dismiss the suit, being barred by limitation, has been rejected, observing that the said objection is premature at this stage, as the issue of limitation is a mixed question of law and facts, which can be decided at an appropriate stage.

The learned counsel for petitioner submitted that from the contents of plaint itself, it is clear that the suit is barred by law of limitation and should have been dismissed under Section 3 of the Limitation Act, 1963. However, he fairly and frankly admitted that the question of limitation is a mixed question of law and facts. He also submitted that

there are some other legal issues involved in the suit. He, therefore, submitted that he may be permitted to withdraw this Revision Petition, with liberty to file an Application under sub-rule (2) of Rule 2 of Order XIV of Code of Civil Procedure, 1908, at appropriate stage.

The prayer appears to be reasonable, therefore, it is allowed. The Revision Petition is, accordingly, dismissed as withdrawn, with liberty, as prayed for.

Chief Justice
25.08.2014

pm/jk Index : ~~Yes~~ / No
Internet : Yes / ~~No~~