



HIGH COURT OF SIKKIM, GANGTOK  
(Civil Extraordinary Jurisdiction)

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D.B. : HON'BLE SHRI SUNIL KUMAR SINHA, ACTG. C.J. &  
HON'BLE SHRI S. P. WANGDI, J.  
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REVIEW PETITION No. 1/ 2015

<u>PETITIONER</u>	Janga Bahadur Chettri, Resident of Palzor Stadium Road, P.O. and P.S. Gangtok, East Sikkim.
	<b>Versus</b>
<u>RESPONDENTS</u>	<div>1. State of Sikkim, Through the Chief Secretary, Government of Sikkim, Gangtok, Sikkim.</div> <div>2. The District Collector, The Office of the District Collector Gangtok, East Sikkim.</div> <div>3. Smt. Harkamaya Chettri, W/o Lt. Kharga Bahadur Chettri, R/o Pani House, Gangtok, East Sikkim.</div>

An Application under Order 47 Rule 1 read with Section 114 and 151 of  
the CPC, 1908

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**Appearance :**  
Mr. Zangpo Sherpa, Mr. Sangay Bhutia, Mr. Dewen Sharma,  
and Ms. Mon Maya Subba, Advocates for the Petitioner.  
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**O R D E R (ORAL)**  
**(19.03.2015)**

Following Order of the Court was dictated on Board by  
**SUNIL KUMAR SINHA, Actg. CJ.**

1. Delay condoned in CMA No. 43/2015.
2. Heard on admission.
3. The Petitioner is seeking review of the Judgment dated 20.09.2012 passed in W.P.(C) No.43/2011. By the impugned Judgment, the writ petition filed by the Petitioners against the order of cancellation of their Certificate of Identification (COI) was dismissed by the writ Court.
4. The Petitioner claims to be son of Late Kharga Bdr. Chettri. Earlier a COI was issued to the Petitioner by the Assistant Collector, East, Gangtok on 03.12.2009 and the same was confirmed by the Addl. District Magistrate on 30.03.2010. Thereafter, Writ Petition (C) No. 17/2010 was filed before this Court against the said order mainly challenging the jurisdiction of the authorities. The said writ petition was allowed by order dated 27.08.2010 and the matter was remitted back to the competent authority to hold a fresh enquiry and to pass final order after giving fair and reasonable opportunity to both the parties to place their respective cases. The District Collector,



East, then took up the matter in Misc. Case No. 37/2010 and after giving due opportunity of hearing to all the parties, passed the order dated 20.05.2011 thereby, setting aside the COI issued in favour of the Petitioner. This order was challenged before this Court in W.P.(C) No. 43/2011, which was dismissed vide impugned Judgment dated 20.09.2012. Hence this Petition.

5. Mr. Zangpo Sherpa, learned counsel for the Petitioner submitted that the Petitioner is the biological son of late Kharga Bdr. Chettri; in the Gift Deed, executed by late Kharga Bdr. Chettri he has mentioned the Petitioner as his son, therefore, the impugned Judgment deserves to be reviewed.

6. The impugned Judgment in W.P.(C) No. 43/2011 was passed by a Division Bench of this Court, in which, one of us (Wangdi, J.) was a member. It comes in paragraph 3 of the impugned Judgment that while passing the order dated 20.05.2011 in Misc. Case No. 37/2010, the District Collector, East has taken note of the fact that earlier the Petitioner had claimed to be the adopted son of late Kharga Bdr. Chettri in the proceedings before the Assistant Collector, Gangtok and he made a statement to this effect. It is against this admission made by the Petitioner in the earlier proceedings, the Petitioner



claimed himself to be the biological son of late Kharga Bdr. Chettri while hearing of the W.P.(C) No. 43/2011.

7. While hearing the said writ petition, this Court, with the consent of both the parties, referred the matter for DNA test of the Petitioner and Respondent No. 3 and ultimately the test was performed and a report was received from concerned Laboratory at Hyderabad which revealed that the progeny of the Petitioner was not traceable to the Respondent No.3 and it was not scientifically established that the Petitioner was the biological son of Respondent No. 3 and late Kharga Bdr. Chettri. The finding to this effect, on the basis of above DNA test was recorded by this Court vide paragraph 5 of the impugned Judgment.

8. So far as the mentioning of the name of the Petitioner as son of late Kharga Bdr. Chettri in the alleged Gift Deed is concerned, it cannot be an evidence of relationship or paternity. It was simply a statement made in the document, which still was required to be proved to be the admission of the alleged fact.

9. In ***Union of India & Ors. Vs. B. Valluvan & Ors. :AIR 2007 SC 210*** it was held that the Court's jurisdiction to review its own judgment, as is well known, is limited. The High Court,



indisputably, has a power of review, but it must be exercised within the frame work of Section 114 read with Order 47 of the Code of Civil Procedure.

10. Present is not a case of discovery of new and important matter of evidence nor a case in which the Petitioner, seeking review, could point out any apparent error on face of the record. Thus, there appears to be no sufficient ground for review of the impugned Judgment. The Petitioner has taken all the grounds in the writ petition and the writ Court had passed the impugned Judgment after considering them by making elaborate discussions.

11. For all these reasons, we do not find any substance in the Review Petition. The same, therefore, is liable to be dismissed and is dismissed summarily.

**(S.P. Wangdi)**  
**Judge**  
19.03.2015

**(S.K. Sinha)**  
**Acting Chief Justice**  
19.03.2015

