

HIGH COURT OF SIKKIM
Record of Proceedings

C.R.P. No. 05 of 2018

JIGMI PHUNCHOK BHUTIA

PETITIONER

VERSUS

AISHWARYA RAI & ORS.

RESPONDENTS

Date: 29.03.2019

CORAM:

THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

For Petitioner : Mr. Souri Ghosal and Ms. Rajani Rizal, Advocates.

For R-1 : Mr. Sudesh Joshi, Advocate (Legal Aid).

For R-2, R-3 & R-4 : None present.

ORDER

Heard learned Counsel for the parties.

The Petitioner is before this Court assailing the order dated 14.05.2018 passed by the learned Civil Judge, East Sikkim at Gangtok in Title Suit No. 39 of 2014 vide which the learned trial Court, on receiving Title Appeal No. 4 of 2015 on remand from the Court of the learned District Judge, Special Division I, Sikkim at Gangtok allowed the Respondent No. 1 herein to file an amended plaint by inserting the amendment claiming declaration of title, ejectment, recovery of possession and consequential reliefs.

It is submitted by learned Counsel for the Petitioner that the suit had been filed under Section 34 of the Specific Relief Act, 1963 with specific prayers for declaration. The learned Appellate Court while remanding the case had specified in its order that the matter was being remanded back to the learned trial Court for impleading the legal heirs of Late Sonam Topden Bhutia as Defendants in the suit. It

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was further ordered that the suit shall be readmitted in its original number and if need be the Appellant/ Plaintiff, shall be allowed to amend her pleadings. That the order is a speaking order and amendment was allowed only to the extent required after impleading the necessary parties. However, the Respondent No. 1 inserted the amendments as delineated *supra* over and above the order of the learned Appellate Court or the provisions of law, hence the order of the learned Civil Judge be set aside.

Learned Counsel for the Respondent No. 1 on the other hand fairly conceded that the procedure prescribed by law was not adhered to, consequently he has no objection if the order of the learned Civil Judge is set aside in the afore-stated circumstances.

Considered submissions.

In view of the learned Counsel for the Respondent No. 1 having conceded to the position of law, the impugned order dated 14.05.2018 passed by the learned Civil Judge, East Sikkim at Gangtok is set aside.

The stay granted by this Court vide order dated 28.06.2018 stands vacated.

C.R.P. No. 5 of 2018 disposed of accordingly.

In view of the above, I.A. No. 1 of 2018 also stands disposed of.

Judge
29.03.2019

Index : ~~Yes~~ / No
Internet : Yes / ~~No~~

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