



THE HIGH COURT OF SIKKIM: GANGTOK
(Civil Revisional Jurisdiction)

SINGLE BENCH: THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

C.R.P. No. 05 of 2022

Ms. Anu Hangma Subba,
Aged about 36 years,
D/o late Jas Hang Subba,
R/o Shantinagar Chisopani,
P.O. & P.S. Singtam,
East Sikkim. 737 134.

..... Revisionist

Versus

1. Gyan Bahadur Chettri,
S/o late Laxmunan Chettri,
R/o Lower Lingchey,
P.O. & P.S. Singtam,
East Sikkim-737 134.
2. Ganga Ram Chettri,
S/o late Laxmunan Chettri,
R/o Lower Lingchey,
P.O. & P.S. Singtam,
East Sikkim-737 134.
3. Suraj Chettri,
S/o late Laxmunan Chettri,
R/o Lower Lingchey,
P.O. & P.S. Singtam,
East Sikkim-737 134.
4. Milan Tamang,
S/o late Dutey Tamang,
R/o Lower Lingchey,
P.O. & P.S. Singtam,
East Sikkim-737 134.
5. Kharman Tamang,
S/o late Dutey Tamang,
R/o Lower Lingchey,
P.O. & P.S. Singtam,
East Sikkim-737 134.



6. Dawa Tshering Tamang,
S/o late Dutey Tamang,
R/o Lower Lingchey,
P.O. & P.S. Singtam,
East Sikkim-737 134.
7. Bal Bdr. Chettri,
S/o late Sriman Chettri,
R/o Lower Lingchey,
P.O. & P.S. Singtam,
East Sikkim-737 134.
8. Duryodhan Chettri,
S/o late Sriman Chettri,
R/o Lower Lingchey,
P.O. & P.S. Singtam,
East Sikkim-737 134.
9. Man Bahadur Chettri,
S/o late Sriman Chettri,
R/o Lower Lingchey,
P.O. & P.S. Singtam,
East Sikkim-737 134.
10. Padam Prasad Chettri,
S/o late Sriman Chettri,
R/o Lower Lingchey,
P.O. & P.S. Singtam,
East Sikkim-737 134.
11. State of Sikkim,
Through the Chief Secretary,
Tashiling Secretariat, Tashiling,
P.O. & P.S. Gangtok, District-East,
Sikkim – 737 103.
12. The Secretary,
Land Revenue & Disaster Management
Department,
Government of Sikkim,
Tashiling Secretariat, Tashiling,
P.O. & P.S. Gangtok, District-East,
Sikkim – 737 103.
13. The Secretary,
Forest and Environment Department,
(formerly Forests, Environment and Wildlife
Management Department)
Government of Sikkim,



Forest Secretariat, Deorali,
P.O. & P.S. Gangtok, District-Gangtok,
East Sikkim- 737 101.

14. District Collector,
Gangtok District, District Administrative Centre,
Sichey, P.O. & P.S. Gangtok,
District Gangtok, East Sikkim 737 101.

.....Respondents

Revision Petition under Article 227 of the Constitution of India.

Impugned order dated 07.07.2022 passed by the learned Civil Judge, East Sikkim at Gangtok in Title Suit No.08 of 2018, (Gyan Bahadur Chettri & Ors. vs. State of Sikkim & 3 Ors.)

AND

Impugned Order dated 02.11.2021 passed by the learned Civil Judge, East Sikkim at Gangtok under Order XXXIX Rule 1 and 2 read with section 151 of the CPC in civil Misc. Case No. 13 of 2021 (Shri Gyan Bahadur Chettri & 9 Ors. Vs. State of Sikkim & 03 Ors.).

Appearance:

Mr. J. B. Pradhan, Senior Advocate with Mr. M. N. Dhungel, and Ms. Rachana Rai, Advocates for the Revisionist.

Mr. B. Sharma, Senior Advocate with Mr. B. N. Sharma, Ms. Shreya Sharma, Ms. Puja Kumari Singh and Ms. Roshni Chettri, Advocates for the Respondent nos. 1 to 10.

Mr. S. K. Chettri, Government Advocate for the Respondent nos. 11 to 14.

Date of hearing : 27.07.2023.

Date of Judgment : 27.07.2023

J U D G M E N T (ORAL)

Bhaskar Raj Pradhan, J.

1. Heard Mr. J. B. Pradhan, learned Senior Counsel for the revisionist; Mr. B. Sharma, learned Senior Counsel for the



respondent nos. 1 to 10 and Mr. S. K. Chettri, learned Government Advocate for the respondent nos. 1 to 14.

2. The revisionist had challenged the impugned Orders dated 07.07.2022 and 02.11.2021 by which an application for impleadment under Order I Rule 10 of the Code of Civil Procedure, 1908 (CPC) filed by the revisionist was rejected and the application under Order 39 Rule 1 and 2 CPC filed by the respondent nos. 1 to 10 was allowed issuing certain directions upon the respondent no. 13 herein. It is the specific plea of the revisionist that the suit land involved in Title Suit No.08 of 2018 are separate pieces of land described in Schedule A, B and C falling under Sumin Lingchey near Singtam East Sikkim whereas the properties which the revisionist seeks to protect is situated at Chisopani, Revenue Block under Sang Circle.

3. The learned Trial Judge vide Order dated 07.07.2022 has rejected the application under Order I Rule 10 CPC filed by the revisionist seeking impleadment in Title Suit No.08 of 2018 on the ground that the revisionist had failed to show that she has any interest in the suit properties. The learned Trial Judge also held that the suit properties and the land claimed by the revisionist are different. This is exactly what has been claimed by the revisionist through her counsel which is also accepted by Mr. B. Sharma, learned Senior Counsel who appears for respondent nos.1 to 10 who are the original plaintiffs.

4. In such view of the matter, this court is of the considered view that the application under Order I Rule 10 CPC was rightly



rejected since the revisionist was neither a necessary nor a proper party.

5. By the impugned Order dated 02.11.2021 the learned Trial Judge had directed the respondent no.3 who is now respondent no.13 to dismantle the illegally erected barbed wire fence in the portion of the suit property and to ensure that there is no interference in the suit property by any third party till disposal of the case. In view of the categorical submissions made by the learned counsel for the parties this order also cannot affect the revisionist at all. Therefore, the impugned Order dated 02.11.2021 also calls for no interference. On hearing the learned counsel for the revisionist, it seems the grievance of the revisionist is against the respondent no.13, if at all. The revisionist may, if she so desires pursue her legal remedy in an appropriate forum, if such rights exists. No order as to costs.

(Bhaskar Raj Pradhan)
Judge

Approved for reporting : **Yes**
Internet : **Yes**
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