

IN THE HIGH COURT OF SIKKIM

ORDER SHEET

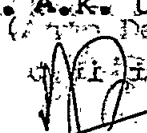
Civil Revision.....No. 4 of 1999 2000.

S.I.D.I.CO.Petitioner/Appellant




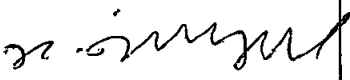
Versus

M/s. Sikkim Vanaspati Ltd. & Respondent



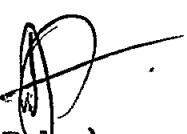
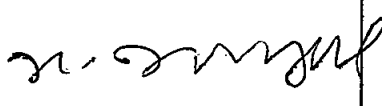
Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	13-4-2000	<p>Present: Mr. S.P. Wangdi, Advocate General with Mr. Karma Thinlay, Asstt. Govt. Advocate for the petitioner.</p> <p>Mr. A.K. Upadhyaya, Advocate for the respondent No.2.</p> <p>Mr. U.P. Sharma, Sr. Govt. Advocate for respondent No.3.</p> <p>Heard. Admit.</p> <p>Issue notice upon respondent No.1, and 3, returnable within four weeks.</p> <p>Mr. A.K. Upadhyaya accepts notice on behalf of respondent No.2. Call for the records of Civil Execution Case No.3/1999 of the file of learned District Judge(Special Division) on 15-5-2000.</p> <p>List it on 17-5-2000 for orders.</p> <p>(Anup Deb) Judge.</p> <p><u>CMA No.93/2000.</u></p> <p>Issue notice of stay application upon respondent Nos.1 and 3. Mr. Upadhyaya accepts notice on behalf of respondent No.2.</p> <p>Heard Mr. S.P. Wangdi, learned Advocate General appearing for the Sikkim Industrial Development & Investment Corporation Ltd. (in short SIDICO). Perused the revision application, stay application and</p>	

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		<p>the order passed by the learned District Judge (Special Division) dated 30-3-2000 in Civil Execution Case No.3 of 1999. Mr. Wangdi submits that the learned District Judge (Special Division) has directed the SIDICO, the petitioner to pay the decretal dues of the respondent No.1 to the respondent No.2 by 14-4-2000. Objection, if any, be filed by the respondents on or before 10-5-2000.</p> <p>List this application for stay on 17-5-2000 for hearing.</p> <p>In the meantime, further proceedings in Civil Execution Case No.3 of 1999 pending in the Court of the learned District Judge (Special Division) so far as it relates to the petitioner shall remain stayed till the disposal of the stay application. The SIDICO shall not make any payment to the respondent No.2 till the disposal of the stay application.</p> <p>Let a copy of this order be served upon Mr. S.P. Wangdi and Mr. A.K. Upadhyaya.</p> <p style="text-align: center;">  (Anup Deb) <u>Judge.</u> </p>	<p>Office Notes to action (any) taken on Order</p> <p><i>Copy of order sent to DJ (Sp Div) for information & compliance on 13-4-2000. Copy held on behalf of A G by 13/4-2000</i></p>

Civil Revision No.4/2000.

Serial No. of Order	Order with Signature	Office Note as to action (if any) taken on Order
2. 17-5-2000	<p>Present: Mr. S.P. Wangdi, Advocate General with Mr. B.K. Rai for the petitioner.</p> <p>Mr. B. Sharma, Advocate for respondent No.1.</p> <p>Mr. A. Choudhury, Sr. Advocate with Mr. A.K. Upadhyaya, Advocate for respondent No.2.</p> <p>Mr. Karma Thinlay, Asstt. Govt. Advocate for respondent No.3.</p> <p>---</p> <p>Heard in part.</p> <p>Be listed on 18-5-2000 for further hearing.</p> <p> (Anup Deb) <u>Judge.</u></p> <p> (R. Dayal) <u>Chief Justice.</u></p>	
3. 18-5-2000	<p>Present: Mr. S.P. Wangdi, Advocate General with Mr. B.K. Rai for the petitioner.</p> <p>Mr. B. Sharma, Advocate for respondent No.1.</p> <p>Ms. A. Choudhury, Sr. Advocate with Mr. A.K. Upadhyaya, Advocate for respondent No.2.</p> <p>Mr. Karma Thinlay, Asstt. Govt. Advocate for respondent No.3.</p> <p>---</p> <p>Heard arguments in part.</p> <p>Before proceeding further, we consider it necessary that the parties should specifically state the points which they want to urge in support of their respected cases. This be done on or before 26-5-2000.</p> <p>The matter be listed on 29-5-2000 for further hearing.</p> <p> (Anup Deb) <u>Judge.</u></p> <p> (R. Dayal) <u>Chief Justice.</u></p>	

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4.	26.5.2000	<p>Present : Mr. S. P. Wangdi, Advocate General with Mr. B. K. Rai, Advocate for the petitioner.</p> <p>Mr. B. Sharma, Advocate for respondent No.1 - Sikkim Vanaspati Ltd.</p> <p>Mr. A. K. Upadhyaya, Advocate for respondent No.2 - ITC Ltd.</p> <p>Mr. Karma Thinlay, Asstt. Govt. Advocate for respondent No.3.</p> <p><u>C.M.A.135/2000</u> ---</p> <p>C.M.A. Heard on the application for amendment.</p> <p>Under Order 21 Rule 90 read with Section 151 of the C.P.C., filed by the petitioner, the amendment sought is relevant on the question as to whether the petitioner has the locus standi to file the application under Order 21 Rule 90. The amendment is, therefore, necessary for the proper disposal of the controversy involved in the case. However, Shri Upadhyaya, learned Counsel appearing on behalf of ITC Ltd. respondent No.2, submits that the allegations sought to be added by the amendment were not before the executing Court and, therefore, there was no error on the part of the Court to pass the improper order. We see no merit in the submission for the reason that it is well settled that the appeal Court as also the court of revision can allow amendment in the pleadings whenever the amendment is considered necessary for the disposal of the controversy. If the argument of the learned Counsel is accepted, it would mean that the Court of appeal or revision can, in no case, allow amendment in the pleadings.</p> <p>In the result, the application is allowed. Amendment be incorporated by the petitioner in the petition latest by tomorrow.</p>	

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		<p><u>C.M.A.137/2000.</u></p> <p>This application has been filed by the petitioner for permission to file the agreement for hypothecation. The application is not opposed. The same is allowed.</p> <p>Be fixed on the date fixed for hearing i.e. 29.5.2000.</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  (A. Deb) Judge <u>26/5/2000</u> </div> <div style="text-align: center;">  (R. Dayal) Chief Justice <u>26/5/2000</u> </div> </div> <p>29.5.2000 Present : Mr. S. P. Wangdi, Senior Advocate with Mr. B. K. Rai, Advocate for the petitioner.</p> <p>Mr. B. Sharma, Advocate for respondent No.1 - Sikkim Vanaspati.</p> <p>Mr. A. K. Upadhyaya, Advocate for respondent No.2 - ITC Ltd.</p> <p>Mr. Karma Thinlay, Asstt. Govt. Advocate for respondent No.3.</p> <p align="center">---</p> <p>today In view of the Orders passed by us//in FAO No.4/2000 I.T.C.Ltd. versus SIDICO and Others, this Revision has become infructuous. However, it is made clear that this Order shall not prejudice either of the parties with respect to their rights and contentions.</p> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  (A. Deb) Judge <u>29/5/2000</u> </div> <div style="text-align: center;">  (R. Dayal) Chief Justice <u>29/5/2000</u> </div> </div>	