

IN THE HIGH COURT OF SIKKIM


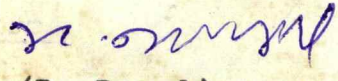

ORDER SHEET

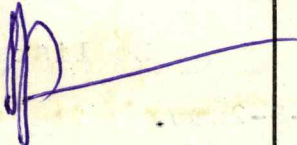

Civil Revision Application No. 6 of 1999 2000.

Chogyal M. W. Namgyal Petitioner/Appellant

Versus

L.B. Chhetri & State of Sikkim Respondents

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	15-5-2000	<p>Present: Mr. N.K.P. Sarraf, Advocate appearing for Mr. T.B. Thapa, Advocate for the petitioners.</p> <p>Mr. S.P. Wangdi, Advocate General with Mr. Karma Thinlay, Asstt. Govt. Advocate for the State respondent.</p> <p>---</p> <p>Mr. N.K.P. Sarraf requests for a date. Not opposed.</p> <p>Be listed for admission on 29-5-2000.</p> <p> (Anup Deb) Judge.</p> <p> (R. Dayal) Chief Justice.</p>	
2.	29.5.2000	<p>Present : Mr. T. B. Thapa, Advocate for the petitioner.</p> <p>Mr. A. Moulik, Advocate for respondent No.1.</p> <p>Mr. Karma Thinlay, Asstt. Govt. Advocate appearing on behalf of Mr. U. P. Sharma, Senior Govt. Advocate for respondent No.2.</p> <p>---</p> <p>On request, the matter be listed on 18th July, 2000 for admission.</p> <p> (R. Dayal) Chief Justice</p>	

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
3.	18-7-2000	<p>Present: Mr. T.B. Thapa, Advocate, for the petitioner.</p> <p>Mr. A. Moulik, Advocate, for respondent No. 1.</p> <p>Mr. S.P. Wangdi, Advocate General with Mr. Karma Thinlay, for respondent No.2.</p> <p>-----</p> <p>This matter is to be heard and disposed of by the Bench presided over by the Hon'ble Chief Justice.</p> <p>Place it before the Hon'ble Chief Justice after his Lordship's return for fixing a date.</p> <p style="text-align: right;"></p> <p style="text-align: right;">(Anup Deb) <u>Acting Chief Justice</u></p>	
4.	25-8-2000	<p>Present: Mr. T.B. Thapa, Advocate for the petitioner.</p> <p>Mr. U.P. Sharma, Govt. Advocate for respondent No.2.</p> <p>---</p> <p>Be listed for orders on 19-9-2000.</p> <p style="text-align: right;"></p> <p style="text-align: right;">(R. Dayal) Chief Justice 25-8-2000.</p>	

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Civil Rev.No.6/2000

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
5.	19.9.2000	<p>Present : Mr. T. B. Thapa, Advocate for the petitioner.</p> <p>Mr. A. Moulik, Advocate for respondent No.1.</p> <p>Mr. U. P. Sharma, Govt. Advocate for respondent No.2.</p> <p>----</p> <p>On request of the learned Counsel for the parties, the matter be listed on 20.9.2000 for orders.</p> <p style="text-align: right;"><i>R. Dayal</i></p> <p style="text-align: right;">(R. Dayal) Chief Justice 19.9.2000</p>	
6.	0.9.2000	<p>Present : Mr. T. B. Thapa, Advocate for the petitioner.</p> <p>Mr. A. Moulik, Advocate for respondent No.1.</p> <p>Mr. U. P. Sharma, Govt. Advocate for respondent No.2.</p> <p>---</p> <p>In my view, civil revision does not lie inasmuch as, by the impugned order dated 7th February, 2000 of the learned District Judge, Special Division, Gangtok in Civil Suit No.18 of 1999, the plaint was rejected on the grounds that there is no cause of action and the suit is barred by limitation. The expression 'decree' is defined in sub-section (2) of Section 2 C.P.C. so as to include the rejection of a plaint. As such, the impugned order amounts to decree. Under section 96 appeal lies from every decree except where otherwise is expressly provided either in C.P.C.</p>	

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or any other law, and there is no other provision to provide a different course in such an event. Since the appeal lies, the revision does not lie.

Learned counsel for the petitioner submits that this revision may be converted into appeal or in the alternative the delay that has occurred may be condoned for filing the appeal. Condonation of delay is to be considered in the appropriate proceedings having regard to the relevant provisions of the Limitation Act. I am of the view that the Court should not interdict the consideration of the relevant facts in the relevant proceedings by passing an order having a cursory look into the matter at this stage in this proceeding. Therefore, I am not inclined to accept the request made by the learned Counsel.

In the result, the revision is dismissed in limine.

R. Dayal
 20.9.2000
 (R. Dayal)
 Chief Justice
 20.9.2000

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