

IN THE HIGH COURT OF SIKKIM

ORDER SHEET

REGULAR SECOND APPEAL



.....No. 3 of 199 2003

PHULMAYA KHATI.....Petitioner/Appellant

Versus

SITA RASAILY.....Respondent

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	17.3.2003	<p>Present : Mr. Anmole Prasad and Mr. T. B. Thapa, Advocates for the appellant.</p> <p>-----</p> <p><u>C.M.Appl.No.29/2003</u></p> <p>Heard on the application for condonation of delay. Delay is condoned subject to objection.</p> <p><u>R.S.A.No.3/2003</u></p> <p>Heard on admission.</p> <p>Substantial question put in by the appellant is "Whether the finding that the sale deed dated 26.11.79 marked exhibit P1 was sufficiently proved by the plaintiff and whether its admission into evidence in the suit was vitiated due to a misreading and misappreciation of the law relating to the proof and admission into evidence of the same?"</p> <p>After hearing the learned Counsel for the appellant and perusing the judgment of the trial court and also of the first appellate court, both of whom have decreed the suit in favour of the plaintiff-respondent against the appellant and the other three persons who were impleaded defendant Nos.2 to 4 and, more particularly, paragraph 35 of the judgment of the trial court which mentions that on 16.4.1982 the power of attorney executed in favour of the appellant was presented before the Registrar which was confirmed by the seller that the proposed</p>	

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At/		<p>attorney can sign on his behalf receive balance, consideration value etc., We have no doubt that the sale deed was executed by the executant and, therefore, no substantial question of law arises for decision. The appeal is dismissed in limine.</p> <p> (N. Surjmani Singh) Judge 17.3.2003</p> <p> (Ripusudan Dayal) Chief Justice 17.3.2003</p>	