

IN THE HIGH COURT OF SIKKIM

CIVIL JURISDICTION

W.P.(C) No. 15 of 2012

Shri Prashant Kumar Goyal

~~Appellants(s)~~
Petitioner (s)

Versus

Smt. Sogra Khatoon & Ors.

Respondent (s)
~~Opposite party (s)~~

~~Appellant~~


For _____ Mr. Udai P. Sharma, Advocate with
Petitioner Mr. G. Lama, Advocate.
(Advocate (s))

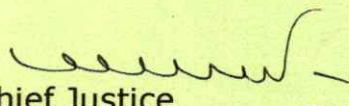
Respondent

For _____
Opposite Party
(Advocate (s))

Serial No.	Date	Order (s) with Signature (s)
1	2	3
01.	24.04.12	<p style="text-align: center;">BEFORE</p> <p style="text-align: center;">HON'BLE THE CHIEF JUSTICE MR. JUSTICE PERMOD KOHLI</p> <p>Present: Mr. Udai P. Sharma and Mr. G. Lama, Advocates for the Petitioner.</p> <p style="text-align: center;">...</p> <p>This petition has been filed invoking the jurisdiction of this Court under Article 226 and 227 of the Constitution of India to challenge the order dated 23.03.2012 passed by the District Judge, Special Division-I, Sikkim at</p>

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		<p>Gangtok, whereby the application of the petitioner herein for summoning additional witnesses has been partially rejected. The petitioner herein is defendant No. 4 in the suit titled Smt. Sogra Khatoon vs. Smt. Durga Khati & Others. After the framing of the issues the parties were required to file their list of witnesses in accordance with Order XVI Rule 1 of the Code of Civil Procedure, 1908 (for short CPC). The petitioner also furnished his list of witnesses on 19.09.2001 seeking assistance of the Court for summoning as many as six witnesses. The evidence of the plaintiff already stands concluded. Defendants No. 1 and 2 were set ex-parte. During the course of the evidence of the petitioner (defendant No. 4) the petitioner made an application under Section 151 of the CPC seeking indulgence of the Court to summon as many as four new witnesses enlisted in the application on the ground that these witnesses are necessary on account of subsequent events. The application was seriously contested by the plaintiff, the respondent No. 1 herein. Learned District Judge, Special Division-I, Sikkim at Gangtok after hearing the parties rejected the application except the name of one witness namely, Ms. Urvashi Poudyal. It is against this order that the present petition has been filed before this Court.</p>

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		<p>2. I have heard Mr. Udai P. Sharma, learned counsel appearing for the petitioner and perused the impugned order dated 23.03.2012, the application and material on record. The petitioner has not been able to satisfy this Court as to how the order impugned suffers from any illegality. Learned counsel has also not been able to make out a case for summoning of other three witnesses. The relevance of their statement/evidence to prove the issues framed in the case has not been indicated in the application. In this view of the matter I do not find any valid ground to interfere with the impugned order.</p> <p>3. At this stage, learned counsel for the petitioner submits that he may be allowed to produce any other witness after the list already submitted in the suit is exhausted. Needless to say that the petitioner (defendant No. 4) has a right to produce any witness not enlisted in the list of witnesses furnished under Order XVI Rule 1 after the list is exhausted but without the assistance of the Court. The petitioner shall have the liberty to produce any other witness after the list furnished by the petitioner is exhausted. However, the entire evidence shall be produced on one day for which the trial Court will fix a date after the statements of enlisted witnesses are recorded.</p>

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		<p>4. From the perusal of the impugned order it appears that the suit is more than 10 years old. Though the number of the suit is Title Suit No. 1/2005, however, it appears that fresh number is allotted after the suit was transferred to the District Judge, Special Division-I, Sikkim at Gangtok whereas the suit is pending for more than 10 years. It is a matter of concern for this Court that the suit is pending for a period of more than 10 years.</p> <p>5. In view of the pendency of this suit for a period of more than 10 years, the trial Court is directed to decide the suit within a period of 4 (four) months, failing which the trial Court shall inform the reasons to this Court for non-compliance of this direction.</p> <p>6. With the above observations, the petition stands dismissed.</p> <p style="text-align: right;">  Chief Justice 24.04.2012 </p>

pm/jk

Index : Yes / No
Internet : Yes / No