

KUMAR TAMANG @ HARI KUMAR TAMANG	PETITIONER
VERSUS	
STATE OF SIKKIM AND OTHERS	RESPONDENT (S)

CORAM : HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.

For Petitioner : Mr. A. Moulik, Sr. Advocate with Ms K.D. Bhutia and Mr. Ranjit Prasad, Advocates.

For Respondent(s)
R1 to R-4 : Mr. S.K. Chettri, Govt. Advocate.

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Heard Mr. A. Moulik, learned Senior Advocate for the petitioner and Mr. S.K. Chettri, learned Government Advocate, for the State respondents.

Issue notice.

Mr. S.K. Chettri accepts and waives formal notice.

The present writ petition requires examination.

Admit.

As requested by Mr. S.K. Chettri, four weeks' time is granted to file counter-affidavit and two weeks thereafter, is granted to the petitioner to file rejoinder, if required.

List on 31.07.2020.

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I.A. No. 1 of 2020

Heard Mr. A. Moulik, learned Senior Advocate for the applicant and Mr. S.K. Chettri, learned counsel for the State respondents.

The writ petition has been admitted for hearing. Counter-affidavit and rejoinder are awaited. Apparently, two complaints against the petitioner's Certificate of Identification (COI) was filed one after the other and withdrawn on the ground that they had not verified facts at the time of making the complaints. When the second complaint by one Pahal Man Kami was withdrawn, the district authorities decided to register a *suo moto* case and enquire. The enquiry led to the cancellation of COI based on a verification report of the Special Branch of the Police. The Special Branch had earlier given a report in favour of the petitioner along with the Panchayat and Revenue Supervisor, based on which the COI had been issued. This time too, the Panchayat report was again in favour of the petitioner. The Additional District Collector (respondent no. 3) vide the impugned order dated 12.02.2020, was of the view that there was no supporting documents to establish the relationship of the petitioner to the Sikkim Subject Certificate holder – Late Dhan Man Tamang. The *suo moto* case was with regard to fraudulently obtaining COI by the petitioner. However, the impugned order dated 12.02.2020, proceeds beyond the cancellation of the COI and also directs the Sub-Divisional Magistrates of Gangtok, Rangpo, Rongli and Pakyong, to cancel transactions of landed properties which were carried out on the basis of the said COI of the petitioner. A further direction was also issued to the Station

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House Officer, Sadar Police Station, to register a case against the petitioner for misrepresentation of facts.

Prima facie the enquiry seems wanting. This court is of the view that the powers of the district authorities to direct cancellation of transaction of landed properties in a case relating to cancellation of COI requires to be examined.

Thus, the effect and operation of the impugned order dated 12.02.2020 directing the cancellation of the COI, cancellation of the transaction of the landed properties which were carried out on the basis of the COI and direction to register a case against the petitioner for misrepresentation of facts is hereby stayed. No steps shall be taken to give effect to the impugned order dated 12.02.2020, until the determination of the present writ petition.

The application is accordingly allowed and disposed of.

Judge

Index : ~~Yes~~ / No
Internet : Yes / ~~No~~

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