

**HIGH COURT OF SIKKIM**

Record of proceedings

**RSA No. 01 of 2016**

FURDEN TSHERING BHUTIA & ORS.

.... APPELLANTS

VERSUS

PAYZEE BHUTIA (SHERPA) & ORS.

.... RESPONDENTS

Date:26.02.2019

CORAM

**HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, J.**

For Appellants : Mr. B. Sharma, Senior Advocate with Mr. Bhola Nath Sharma, Advocate.

For Respondent : Mr. S. S. Hamal, Ms. Priyanka Chhetri and Mr.  
Nos. 1, 2 and 3. Mahesh Subba, Advocates.

For Respondent : Mr. Karma Thinlay, Senior Government Advocate with  
Nos. 4, 5 and 6 Mr. Thinlay Dorjee Bhutia, Government Advocate.

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During the course of arguments the learned Counsels appearing for the parties drew attention of this Court to the questions of law formulated by this Court on 25.04.2017 and pointed out that question no.1 framed may require to be amended since the pivotal issue which had been raised by the Appellants in the proceedings was that Smt. Payjee Bhutia the Respondent no.1 herein having married Shri Passang Sherpa had lost her right to receive landed property from her father who is a Bhutia in view of Notification No. 28/L.R. dated 21<sup>st</sup> April, 1969 issued clarifying Revenue Order No.1 of 1917. It is therefore urged that the following question of law may be more appropriate:-

*“Whether the marriage of Smt. Payjee Bhutia (a Bhutia) to Shri Passang Sherpa (a Sherpa) would disentitle Smt. Payjee Bhutia (Sherpa) to receive immovable property by way of gift from her father (a Bhutia)?”*

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The learned Counsels appearing for the parties would further submit that in view of the new question of law which may be framed it would not be necessary to answer the question framed as question no.1 vide order dated 25.04.2017.

Having heard the learned Counsels for the parties this Court is of the view that the question as formulated above shall be framed for consideration in the present second Appeal. The issue whether question no.1 framed on 25.04.2017 ought to be decided or not should be determined on hearing the learned Counsels finally.

List on 27.02.2019.

**Judge**  
**26.02.2019**

to/ **Index: yes/No**  
**Internet: yes/No**