

HIGH COURT OF SIKKIM

Record of Proceedings

W.P. (C) No. 01/2018

JANGPU SHERPA @ JAMPU SHERPA

.... PETITIONER

Versus

PHURBA LHAMU SHERPA & ORS.

.... RESPONDENTS

Date:27.08.2018

CORAM

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

For Petitioner : Mr. Zangpo Sherpa, Mr. Jushan Lepcha and
Mr. Bhupendra Giri, Advocates

For Respondent : Mr. William Tamang, Legal Aid Counsel.
No.1

For Respondents : Mr. S.K Chhetri, Assistant Government Advocate.
No.2 & 3

.....

The Writ Petition has been filed by the Petitioner challenging the Order dated 14.05.2001 passed by the Additional District Collector, Namchi, South Sikkim by which the records of rights for plot no. 233 and 234 at Damthang Block were directed to be corrected in the name of the Respondent No.1. Admittedly, the said record of rights was in the name of Petitioner prior to the correction. The record reveals that on the complaint filed by the Respondent No.1 to the Panchayat the matter was referred to the Office of the SDM after which the proceedings initiated. During the proceedings it transpires that issues were framed and evidence recorded and based on the evidence recorded by the Additional District Collector the said officer decided those issues and thereafter directed that the records of the rights of plot No. 233 and 234 at Damthang block to be corrected in the name of the Respondent No.1 after the expiry of the three months of the date of the said order within the time of which any of the party could approach the appropriate Forum for relief against the said order.

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Counter affidavit has been filed by the Sub Divisional Magistrate stating the facts relevant for the particular purpose.

Similarly, the Respondent No.1 has also filed the counter affidavit. This Court desired to know as to which was the applicable law being followed for the purpose and which are the provisions which requires to be considered. The counter affidavit filed by Respondent No.2 is silent on the law and as well as the procedure. This query has been raised for several dates. The learned Counsels appearing for the parties have brought the attention of this Court to the Sikkim Darbar Gazette Record Writing or Kotha Purnu or Dru Deb and Attestation Rules for Sikkim State. However, the learned Counsel appearing for the Respondent No.2 and 3 has not been able to point out the procedure followed while conducting the proceeding as has been narrated in the counter affidavit or the law applicable thereto.

In view of the aforesaid, the Respondent No.3 is directed to file a detail affidavit pointing out the law as well as the procedure followed while examining issues pertaining to issuance of parchas or correction/ rectification or cancellation thereof applicable in Sikkim for the just decision of this Case.

List on 25.09.2018.

Judge
27.08.2018

tsh/ **Index: yes/No**
Internet: yes/No