

W. P. (C) No. 07 OF 2016

-VERSUS-

- FOR ----- Mr. J. B. Pradhan, Addl. Advocate General, Mr. Karma
Thinlay, Sr. Govt. Advocate, Mr. Santosh K. Chettri and
Ms. Pollin Rai Asst. Govt. Advocate.

Case No.....

Serial No.	Date	Order (s) with Signature (s)
1	2	3
01.	05.04.16	W.P.(C) No. 07/2016 BEFORE MR. JUSTICE S.K. SINHA, CJ Present: Mr. Zangpo Sherpa, Mr. Sangay G. Bhutia and Ms. Doma Lepcha, Advocates for the Petitioner. Mr. Santosh Kr. Chettri and Ms. Pollin Rai, Asstt. Govt. Advocates for the Respondents. ... Heard on admission. Order dictated in open Court. Typed separately, signed and dated. <i>sd/-</i> Chief Justice 06.04.2016

pm/jk

Index : Yes / No
Internet : Yes / No

HIGH COURT OF SIKKIM, GANGTOK
(Civil Extra Ordinary Jurisdiction)

HON'BLE SHRI SUNIL KUMAR SINHA, CHIEF JUSTICE

W.P. (C) No. 07 of 2016

Jagman Tamang,
S/o late Dawa Singh Tamang,
Aged about : 27 years,
Resident of Kateng Busty,
P.O. Namthang,
South Sikkim.

... **PETITIONER**

Versus

1. State of Sikkim
Through the Secretary,
Forest Environment and Wildlife
Management Department,
Government of Sikkim,
Gangtok, Sikkim-737 101.
2. Through the Secretary of the
Land Revenue and Disaster Manager Deptt.,
Government of Sikkim,
Gangtok, Sikkim-737 101.

... **RESPONDENTS**

Writ Petition under Article 226 of the Constitution of India.

Appearance :

Mr. Zangpo Sherpa, Mr. Sangay G. Bhutia and Ms. Doma
Lepcha, Advocates for the Petitioner.

Mr. Santosh Kr. Chettri and Ms. Pollin Rai, Asstt. Govt.
Advocates for the Respondents.

ORDER (ORAL)
(06.04.2016)

SUNIL KUMAR SINHA, CJ.

1. Heard on admission.

2. Mr. Sherpa, learned counsel for the Petitioner submits that father of the Petitioner, late Dawa Singh Tamang was owner of Plot Nos. 246, 264 and 267, areas 1.30 acres, 0.94 acre and 0.70 acre respectively. This was also reflected in Survey Operation of 1950-52. However, in Survey Operation of 1979-80 the said plots were wrongly recorded as Sikkim Sarkar Khasmal. When the Petitioner came to know about this fact in the year 2011, an Application was filed before the concerned District Collector (South Sikkim). Thereafter, an inspection was carried out by the Land Revenue and Disaster Management Department and it was found that land measuring an area of 1.1880 Hectare belonging to late Dawa Singh Tamang under Pamphok, was wrongly recorded as forest land (Sikkim Sarkar Khasmal) during the Survey Operation of 1979-80. Further submission of Mr. Sherpa is that Petitioner is still holding possession of the said land(s) and in this regard, District Collector (South District), after due enquiry, has issued Memo No. 260/DC(S)/Accts./LR & DM dated 10.01.2013 (Annexure P-5) to the Divisional Forest Officer (T), Sub-Division, Namchi for issuance of NOC for correction of

land records. But, thereafter, there is no progress in the matter and the same is still lying pending.

3. His limited prayer is that this Petition may be disposed off at this stage with a liberty to the Petitioner to file a fresh application for correction of land records, along with all relevant documents, before the District Collector (South) and the District Collector may be directed to dispose of the same in accordance with law within the stipulated period granted by this Court.

4. The aforesaid limited prayer made by learned counsel for the Petitioner has not been opposed by learned counsel for the Respondents.

5. The writ petition, therefore, is disposed off with the direction that if so advised, the Petitioner may file a fresh application before the concerned District Collector along with all the annexures filed herein within a period of seven days from today and if such an application is filed, the District Collector shall dispose off the same as early as possible preferably within a period of 60 (sixty) days from the date of receipt of the said application.

6. Needless to say that the District Collector will not initiate a *de novo* enquiry and will rely upon the early enquiry/ inspection reports submitted by the concerned authorities as also the above Memo issued to the Divisional Forest Officer.

7. With the above observations/directions, the writ petition stands finally disposed off.

8. No order as to costs.

sd/-
Chief Justice
06.04.2016

pm/jk
Approved for Reporting : Yes/No.
Internet : Yes/No.