



IN THE HIGH COURT OF SIKKIM

ORDER SHEET

F.A.O.

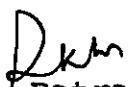

No. 1 of 2004

Laxmi Bhandari



Petitioner / Appellant

Versus


Secretary, U.D.&H.D. & Another Respondents

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	23.4.2004	<p>Heard Shri B. Sharma, learned Counsel for the appellant.</p> <p>Admit.</p> <p>Issue notice fixing 5.5.2004 for hearing. Requisites may be filed within 2 days. No notice be issued to respondent No.1 since Shri Karma Thinlay, Assistant Govt. Advocate takes notice on behalf of respondent No.1.</p> <p style="text-align: right;">  (R. K. Patra) Chief Justice </p>	<p>Trial Court records called for on 26-4-04.</p> <p>hulas 28/4/04</p> <p>Trial Court record received.</p> <p>hulas</p> <p>Request for respd No. 2 not filed.</p> <p>hulas 31/5/04</p>
2.	5.5.2004	<p>Shri B. Sharma, learned Counsel for the appellant produces postal receipt dated 26.4.2004 from which it appears that notice to respondent No.2 has also been sent. Await receipt of A.D.</p> <p>Put up for hearing on 14.5.2004.</p> <p style="text-align: right;">  (R. K. Patra) Chief Justice </p>	<p>A.D. Card not received. hulas.</p> <p>12/5/04</p>



Order	Order with Signature	Office Note action (if any) taken on Order
3. 14.5.2004	<p>AD has not yet come from the respondent No.2. Shri B. Sharma, counsel for the appellant undertakes to serve copy of the memo of appeal on Shri N. Rai, counsel who was appearing for respondent No.2 in the lower court by tomorrow.</p> <p>Put up for hearing on 17.5.2004.</p> <p style="text-align: right;">  (R. K. Patra) <u>Chief Justice</u> </p>	
4. 17.5.2004	<p>As agreed to by the counsel for the parties, put up for hearing on 24.5.2004.</p> <p style="text-align: right;">  (R. K. Patra) <u>Chief Justice</u> </p>	
5. 24.5.2004	<p>This appeal filed by the plaintiff is directed against the order dated 28.2.2004 passed by the learned District and Sessions Judge, East and North, Gangtok in Civil Suit No.40/2002 rejecting the application filed by her for grant of injunction.</p> <p>2. I have heard Shri B. Sharma, counsel for the appellant, Shri J. B. Pradhan, learned Government Advocate for respondent No.1 and Shri N. Rai, counsel for respondent No.2.</p> <p>3. Considering the facts and circumstances, and more particularly, in view of the fact that the</p>	



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		<p>respondent No.2 has already completed construction of a two storied building on the suit land, and since none of the parties would be prejudiced in any way if I direct status quo as on today in respect of possession of the suit property to be maintained, I order accordingly.</p> <p>Shri Sharma, counsel for the appellant submits that the learned trial Judge has made some observations in the impugned order touching on the merit of the case. I make it clear any observation made by the learned trial Judge in the impugned order is in connection with his findings which are of prima facie nature. I am sure that while deciding the suit on merit, such observations will not weigh with him.</p> <p>4. Issues have already been framed. The learned trial Judge is directed to dispose of the suit by the end of August, 2004. Parties are directed to appear before him in the first hour of 4.6.2004 to receive further direction from him.</p> <p>5. The appeal is disposed of with the above observations and directions. No costs.</p> <p style="text-align: right;">  (R. K. Patra) Chief Justice </p>	<p>A Copy of order forwarded to trial Court for compliance on 27-5-04. <i>hullas</i> 27/5/04</p>