

# THE HIGH COURT OF SIKKIM : GANGTOK

(Civil Revisional Jurisdiction)

Dated : 28<sup>th</sup> October, 2024

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SINGLE BENCH : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

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CRP No.07 of 2024

**Petitioners/Revisionists** : Sangay Doma Bhutia and Others

**versus**

**Respondents** : M/S Yama Enterprises Private Limited and Another

Application under Section 115 read with Section 151 of the Code of Civil Procedure, 1908

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**Appearance**

Mr. Zangpo Sherpa, Advocate with Mr. Bhaichung Bhutia, Advocate for the Petitioners/Revisionists.

Mr. Anmole Prasad, Senior Advocate with Mr. Sagar Chettri, Advocate for the Respondent No.1.

Mr. S. S. Hamal, Senior Advocate with Mr. Varun Pradhan and Ms. Beneeta Gurung, Advocates for the Respondent No.2.

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## **ORDER**

Meenakshi Madan Rai, J.

**1.** The Revisionists herein impugns the Order dated 21-09-2023, of the Court of the Learned District Judge, Special Division – I, Sikkim, at Gangtok, in Title Suit No.26 of 2022 (*M/s. Yama Enterprises Private Limited vs. Chewang Lhamu Bhutia*), whereby the application under Order I Rule 10(2) read with Section 151 of the Code of Civil Procedure, 1908, filed by the Revisionists, seeking impleadment as Defendants in the Suit was rejected.

**2.** It is submitted by Learned Counsel for the Revisionists that on coming to learn that Title Suit No.26 of 2022, had been filed by the Respondents for declaration, recovery of possession and consequential reliefs, Written Statement thereto was filed by the Respondent No.2 along with Counter-Claim, *inter alia* seeking a declaration that the suit property is in the name of Late Thukchuk

Lachungpa and that he was the sole owner of the property. That, in such circumstances as the Revisionists No.1 and 2 i.e., are the widows of Late Thukchuk Lachungpa, and Revisionists No.3 and 4 are their respective progeny, all four are necessary and proper parties and ought to be impleaded in the said matter. That, the Learned Trial Court erroneously concluded that the Revisionists are not necessary parties to the Suit reasoning that the cause of action was with regard to possession and enjoyment of the suit property by the Defendants, in which other family members or the other widows of Late Thukchuk Lachungpa including the opposing Revisionists had no role to play and the Petition was accordingly dismissed, hence the instant Petition.

**3.** Learned Senior Counsel appearing for the Respondent No.1 objecting to the said Petition submits that the dispute in the Title Suit is limited to the ownership of the suit property which was gifted by Late Thukchuk Lachungpa to the Respondent No.1 and has nothing to do with the other parties. Should the Revisionists be impleaded as parties the nature and scope of the Suit would be enlarged beyond the prayers made in the Plaint.

**4.** Learned Senior Counsel for the Respondent No.2 submitted that he has no objection to the Petition as he is of the view that the Revisionists are necessary and proper parties to the dispute.

**5.** Having heard Learned Counsel for the parties and perused the relevant records, it is seen that the Revisionists' claim to be the widows and children of Late Thukchuk Lachungpa. Considering the nature of the dispute, I am of the view that not only are they proper parties to the Title Suit but they are indeed necessary parties to the Suit as without their presence no orders

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can be passed effectively by the Learned Trial Court. Should the Revisionists not be impleaded as parties it would lead to multiplicity of proceedings. Hence, the Petition is allowed and disposed of accordingly.

**6.** The impugned Order of the Learned Trial Court is accordingly set aside.

**7.** The Learned Trial Court shall implead the Revisionists herein as Defendants and the matter shall be taken up and disposed of expeditiously.

**8.** Copy of this Order be forwarded forthwith to the Learned Trial Court for information and compliance.

**( Meenakshi Madan Rai )**

**Judge**  
28-10-2024

Approved for reporting : **Yes**