

HIGH COURT OF SIKKIM : GANGTOK
Record of Proceedings

IA No. 03/2025
IN
W.P.(C) No. 04/2025

GAGAN RAI AND ANOTHER

PETITIONER (S)

VERSUS

STATE BANK OF SIKKIM AND ANOTHER

RESPONDENT (S)

For Petitioners : Mr. A. Moulik, Senior Advocate with Mr. Yam Kumar Subba, Mr. Ranjit Prasad, Ms. Laxmi Khawas and Ms. Neha Kumari Gupta, Advocates.

For Respondent No. 1 : Mr. Jorgay Namka, Senior Advocate with Mr. Zigmee Dorjee Bhutia and Mr. Lahang Limboo, Advocates.

For Respondent No. 2 : None.

Date: 26/06/2025**CORAM:****HON'BLE MR. JUSTICE BISWANATH SOMADDER, CHIEF JUSTICE**

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J U D G M E N T

This application, being I.A. No. 03 of 2025, was filed on 13th June, 2025, in connection with W.P. (C) No. 04 of 2025, and contains the following prayer:-

"In the circumstances it is prayed that this Hon'ble Court may be kind enough to pass an order of injunction/stay restraining the Certificate Officer and the State Bank of Sikkim from holding public auction on 27/6/25 (Annexure-A2) in pursuance to the proclamation of sale dated 26/5/25 until disposal of the writ petition."

From the records it appears that after the interlocutory application was filed before the filing section of this Court, it was found to be defective. The defects were ultimately rectified on 17th June, 2025. Thereafter, a "Mention Memo" was filed on 22nd June, 2025, praying for urgent hearing of the interlocutory application, but it was withdrawn on 24th June, 2025, for reasons not known. From the file notings, however, it appears that the counsel appearing for both the parties had requested and agreed to fix the matter on 09th July, 2025, instead of

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11th July, 2025. Subsequently — for some strange and inexplicable reason — on the very next day, i.e., on 25th June, 2025, another “Mention Memo” was filed on 25th June, 2025; again praying for urgent hearing of the interlocutory application.

The matter ordinarily falls within the determination of Hon’ble Mrs. Justice Meenakshi Madan Rai. However, since Her Ladyship is presently on leave, the present I.A., being I.A. No. 03 of 2025, is being taken up by this Court.

Having perused the orders passed in this matter, it appears that as far back as on 21st March, 2025, the following order was passed: -

“7. In the meanwhile, within 15 days hence, the petitioners shall deposit an amount of Rs.10 crores before the Registry of this Court and file an affidavit of compliance immediately thereafter as agreed.”

A plain reading of the portion of the order dated 21st March, 2025, as quoted above, would clearly reveal that it is in the nature of a consent order since the petitioners were supposed to deposit an amount of Rs.10 crores before the Registry of this Court and file an affidavit of compliance immediately thereafter, “as agreed”. However, till now the petitioners have not even deposited Rs.10/-, much less Rs.10 crores with the Registry although they had “agreed” to do the same. If the petitioners were unable to pay Rs.10 crores within fifteen (15) days, then the least they could have done was not to have “agreed” to an order for making payment of Rs.10 crores before the Registry of this Court within 15 days from the date of the order.

In view of the aforesaid, what remains to be determined in the present interlocutory application is whether in the facts and circumstances of the instant case, the petitioners are entitled to an order of injunction/stay restraining the Certificate Officer and the State Bank of Sikkim from holding public auction on 27th June, 2025, in pursuance to the proclamation of sale dated 26th May, 2025, until disposal of the writ petition.

Clearly, the *bona fides* of the petitioners are suspect. If in a Court of equity, it is determined that the *bona fides* of the persons who knock at the door of the Court are suspect, then the Court of equity should be loathed to use its

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discretionary powers to injunct or stay the respondents from carrying out their statutory obligations/duties. Equity should always be held with clean and not sullied or soiled hands.

The only order that the petitioners are entitled to at this stage is; if a public auction is held by the State Bank of Sikkim tomorrow or on any subsequent day — in respect of the proclamation of sale dated 26th May, 2025 — the result of such public auction shall abide by the result of the writ petition.

I.A. No. 03 of 2025, stands disposed of accordingly.

The main matter [W.P.(C) No. 04 of 2025] shall be placed before the regular Bench as and when that Bench is available.

(Biswanath Somadder)
Chief Justice

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